



# राजपत्र, हिमाचल प्रदेश

## हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 15 मार्च, 2021 / 24 फाल्गुन, 1942

हिमाचल प्रदेश सरकार

**LAW DEPARTMENT**

**NOTICE**

*Shimla-2, the 9th March, 2021*

**No. LLR-E(9)-2/2018-Leg.**—Whereas, Shri Pankaj Bhardwaj, Advocate s/o Sh. Ravinder Pal, r/o Village Lathi, P.O. & Tehsil Kumarsain, District Shimla, H.P. has applied for appointment of notary in Sub-Division Kumarsain of District Shimla under rule 4 of the Notaries Rules, 1956.

Therefore, I, the undersigned in exercise of the power conferred *vide* Government Notification No. LLR-A(2)-1/2014-Leg. dated 1st July, 2017, hereby issue notice under rule 6 of the Notaries Rules, 1956, for the information of general public for inviting objections, if any, within a period of seven days from the date of publication of this notice in e-Rajpatra, H.P. against his appointment as a notary in Sub-Division Kumarsain of District Shimla.

Sd/-  
(Competent Authority),  
*DLR-cum-Deputy Secretary (Law-English).*

## LABOUR AND EMPLOYMENT DEPARTMENT

### NOTIFICATION

*Shimla-2, the 18th June, 2020*

**No. Shram(A) 6-2/2020 (Awards) Dharamshala.**—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Dharamshala on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/Order
1.	788/16	Chadu Ram	E.E. HPPWD, Nurpur & other	02-03-2020
2.	865/16	Chain Singh	-do-	02-03-2020
3.	787/16	Swarajdeen	-do-	03-03-2020
4.	773/16	Ranjit Singh	-do-	03-03-2020
5.	777/16	Veer Singh	-do-	09-03-2020
6.	13/17	Jan Mohammad	E.E. HPPWD, Nurpur	09-03-2020
7.	166/17	Bhag Mal	D.F.O., Joginder Nagar	09-03-2020
8.	571/15	Bodh Raj	E.E. HPPWD, Chamba	09-03-2020
9.	153/17	Budhia Ram	D.F.O., Chamba	09-03-2020
10.	772/16	Joginder Singh	E.E. HPPWD, Nurpur & other	11-03-2020
11.	57/17	Devi Singh	D.F.O. Karsog	12-03-2020
12.	785/16	Yashpal	E.E. HPPWD, Nurpur & other	12-03-2020
13.	152/17	Kishnu	D.F.O. Chamba	12-03-2020
14.	779/16	Joginder Kumar	E.E. HPPWD, Nurpur & other	13-03-2020
15.	790/16	Bhupal Singh	-do-	13-03-2020
16.	887/16	Ranja Ram	E.E. HPPWD, Nurpur & other	16-03-2020

17	786/16	Bashir Deen	-do-	16-03-2020
18.	774/16	Dev Raj	-do-	16-03-2020
19.	725/16	Dharmi Devi	Er-in-Chief, HPPWD, Shimla	16-03-2020
20.	289/16	Sham Lal	Arun Mahajan	18-03-2020
21.	320/12	Narinder Kumar	S.E. HPSEBL, Palampur	19-03-2020
22.	126/19	Ram Chander	E.E. HPPWD, Mandi	20-03-2020

By order,

**KAMLESH KUMAR PANT, IAS**  
*Addl. Chief Secretary (Lab. & Emp.).*

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-  
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Ref. No. : 788/2016

Date of Institution : 19.11.2016

Date of Decision : 02.03.2020

Shri Chadu Ram s/o Shri Seto Ram, r/o VPO Aund, Tehsil Nurpur, District Kangra, H.P.  
*. Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D., Division, Nurpur, District Kangra, H.P.
2. The Executive Engineer, H.P.P.W.D. Division, Jawali, District Kangra, H.P.  
*. Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether the alleged termination of services of Shri Chadu Ram s/o Shri Seto Ram, r/o V.P.O. Aund, Tehsil Nurpur, District Kangra, H.P. during year, 1990 by (i) the Executive Engineer, H.P.P.W.D., Division Nurpur, District Kangra, H.P. (ii) the

Executive Engineer, H.P.P.W.D., Division Jawali, District Kangra, H.P., who had worked on daily wages as beldar and has raised his industrial dispute after more than 21 years *vide* demand notice dated nil received in the office on 29-11-2012, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view delay of more than 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?"

2. The case of the petitioner, as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1985 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mates of the petitioner were S/Shri Mehar Deen, Nabia, Karam Singh, Satpal, Ramesh etc. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No.1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It was denied that the petitioner had worked with the department from the year 1985 upto the year 1990. It was asserted that the petitioner had never been engaged by the respondents so the question of completing 240 days and retrenchment of the petitioner did not arise. It is admitted that HPPWD Division Nurpur was involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. Since, the petitioner had never been engaged by the respondents, so the question of violation of the provisions of Section 25-B does not arise. It was denied that juniors to the petitioner had been engaged by the respondents. However, claimed that when some workers had been engaged by the respondents as per the directions of the Hon'ble High Court only then the demand notice was issued by the petitioner in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of services of petitioner by the respondents during year, 1990 is/was legal and justified as alleged? . . . *OPP*.
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR*.
4. Whether the claim petition is bad on the ground of delay and laches as alleged? . . . *OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

- |             |   |
|-------------|---|
| Issue No. 1 | : Decided accordingly   |
| Issue No. 2 | : Negative  |
| Issue No. 3 | : Affirmative   |
| Issue No. 4 | : Not pressed/redundant   |
| Relief      | : Claim petition dismissed as per the operative portion of the Award. |

### REASONS FOR FINDINGS

*Issue No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Chadu Ram examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No. PBW-(A)-A(1)17/94. He denied that he had never worked with the respondents. Self stated that, he had worked regularly from the year 1985 upto the year 1990. He denied that he

had never worked for the period from the year 1985 upto the year 1990. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing the days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by respondent No.1 in the year 1985 and that he had worked as such upto the year 1990. It was the stand taken by the respondents that the petitioner had never been engaged by the department. Although, the petitioner (PW1) in his cross-examination denied the fact that he had never been engaged as a daily waged beldar in the year 1985 by the respondents and that he had not worked as such upto the year 1990, but, however, respondent No.1 has proved on record the

mandays chart pertaining to the petitioner as Ex. RW1/E. This mandays chart pertains to HPPWD Division Jawali. Its perusal reveals that the petitioner had not worked with respondent No. 2 even for a single day from the year 1986 upto the year 1990. No mandays chart has been proved on record by the petitioner showing him to have ever worked with respondent No.1. In view of this fact, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that there existed a relationship of employer and employee/workman in between the parties. Significantly, the petitioner neither in his pleadings, nor in his ocular evidence has stated the date on which he was engaged by respondent No.1. There is also no pleading or evidence to the effect as to on which specific date his services stood terminated by this respondent. Only the years of joining and termination of the petitioner stand specified in the statement of claim and his statement by way of affidavit Ex. PW1/A. Although, witnesses, namely, Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3), were examined by the petitioner in support of his case, but I find that their statements are of no help to him, as their service records were not brought on the file to show that they had ever been engaged by the department. Then, it is nowhere the case of the petitioner that he had ever marked his attendance in all those five years, the period for which he claims to have worked with respondent No. 1. Had there been any attendance register in which the petitioner had appended his signatures, he ought to have placed and exhibited on record the same so as to show that his services had been engaged by the respondents from the year 1985 upto the year 1990. But, so is not the case here. No such attendance register has seen the light of the day, nor any prayer had been made by the petitioner for the production of the same from the respondents during the pendency of this case. Further, he could have easily proved the muster rolls for the period for which he had worked. But, no such muster-roll has been produced. Even no appointment letter to show that the services of the petitioner had been engaged by the respondents has been placed on record by him.

20. From the ocular and documentary evidence of the respondents available on record, it can be gathered that the petitioner had never been appointed in any capacity at any point of time by the respondents.

21. Since, there is no cogent, convincing and reliable evidence on the file establishing the relationship of employer and employee/workman in between the petitioner and the respondents, therefore, the provisions of Section 25-F of the Act are not attracted in this case. The respondents can also not be held to have violated the provisions of Sections 25-G, 25-H and 25-N of the Act, as the relationship of the petitioner and the respondents being that of a workman and employer stands not established on record.

22. In view of the discussion and findings aforesaid, it appears to me that the avarice of the petitioner to grab government job and money had forced him to file a totally false and baseless claim. He is not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

23. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the locus standi to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a mala fide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

24. Not pressed. Even otherwise, the plea of delay and laches would have been relevant had the petitioner been able to prove the demand notice as well as the fact of he being a workman under the respondents for the alleged period. Hence, this issue becomes redundant.

*Relief :*

25. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered accordingly. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 2nd day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 865/2016

Date of Institution : 26.11.2016

Date of Decision : 02.03.2020

Shri Chain Singh s/o Shri Dharamu, r/o Village Keoyd Garian, P.O. Chowki, District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D., Division, Nurpur, District Kangra, H.P.
2. The Executive Engineer, H.P.P.W.D. Division, Jawali, District Kangra, H.P. . *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether the alleged termination of services of Sh Chain Singh, s/o Sh. Dharamu, r/o Village Keoyd Garian, P.O. Chowki, District Kangra, H.P. by the (1) Executive



Engineer, H.P.P.W.D. Jawali, District Kangra, H.P., and (2) the Executive Engineer, HPPWD Nurpur, Distt. Kangra, H.P. during the year 1990 who had worked on daily wages basis as beldar and has raised his industrial dispute after about 21 years *vide* demand notice dated nil received in the office of Labour Officer Kangra at Dharamshala on 13-06-2011, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not keeping in view delay of about 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?'

2. The case of the petitioner, as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1978 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mate of the petitioner was Shri Puran Chand. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It was denied that the petitioner had worked with the department from the year 1978 upto the year 1990. It was asserted that the petitioner had never been engaged by the respondents so the question of completing 240 days and retrenchment of the petitioner did not arise. It is admitted that HPPWD Division Nurpur was involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. Since, the petitioner had never been engaged by the respondents, so the question of violation of the provisions of Section 25-B does not arise. It was denied that juniors to the petitioner had been engaged by the respondents. However, claimed that when some workers had been engaged by the respondents as per the directions of the Hon'ble High Court only then the demand notice was issued by the petitioner in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 01.12.2018:

1. Whether termination of the services of petitioner by the respondents during year, 1990 is/was legal and justified as alleged? . . . *OPP*.
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR*.
4. Whether the claim petition is bad on account of delay and laches as alleged? . . . *OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Decided accordingly
Issue No. 2	: Negative
Issue No. 3	: Affirmative
Issue No. 4	: Not pressed/redundant
Relief	: Claim petition dismissed as per the operative portion of the Award.

### **REASONS FOR FINDINGS**

*Issue No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Chain Singh examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had never worked with the respondents.

Self stated that, he had worked regularly from the year 1986 upto the year 1990. He denied that he had never worked for the period from the year 1986 upto the year 1990. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing the days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of mandays chart pertaining to the petitioner.

16. The version of the petitioner is that his services were engaged as a daily waged beldar by respondent No. 1 in the year 1985 and that he had worked as such upto the year 1990. It was the stand taken by the respondents that the petitioner had never been engaged by the department. Although, the petitioner (PW1) in his cross-examination denied the fact that he had never been engaged as a daily waged beldar in the year 1986 by the respondents and that he had not worked as such upto the year 1990, but, however, respondent No.1 has proved on record the mandays chart pertaining to the petitioner as Ex. RW1/B. This mandays chart pertains to HPPWD Division Jawali. Its perusal reveals that the petitioner had not worked with respondent No. 2 even for a single day from the year 1986 upto the year 1990. No mandays chart has been proved on record by the petitioner showing him to have ever worked with respondent No. 1. In view of this fact, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that there existed a relationship of employer and employee/workman in between the parties. Significantly, the petitioner neither in his pleadings, nor in his ocular evidence has stated the date on which he was engaged by respondent No.1. There is also no pleading or evidence to the effect as to on which specific date his services stood terminated by

this respondent. Only the years of joining and termination of the petitioner stand specified in the statement of claim and his statement by way of affidavit Ex. PW1/A. Although, witnesses, namely, Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3), were examined by the petitioner in support of his case, but I find that their statements are of no help to him, as their service records were not brought on the file to show that they had ever been engaged by the department. Then, it is nowhere the case of the petitioner that he had ever marked his attendance in all those twelve years, the period for which he claims to have worked with respondent No. 1. Had there been any attendance register in which the petitioner had appended his signatures, he ought to have placed and exhibited on record the same so as to show that his services had been engaged by the respondents from the year 1978 upto the year 1990. But, so is not the case here. No such attendance register has seen the light of the day, nor any prayer had been made by the petitioner for the production of the same from the respondents during the pendency of this case. Further, he could have easily proved the muster rolls for the period for which he had worked. But, no such muster roll has been produced. Even no appointment letter to show that the services of the petitioner had been engaged by the respondents has been placed on record by him.

17. From the ocular and documentary evidence of the respondents available on record, it can be gathered that the petitioner had never been appointed in any capacity at any point of time by the respondents.

18. Since, there is no cogent, convincing and reliable evidence on the file establishing the relationship of employer and employee/workman in between the petitioner and the respondents, therefore, the provisions of Section 25-F of the Act are not attracted in this case. The respondents can also not be held to have violated the provisions of Sections 25-G, 25-H and 25-N of the Act, as the relationship of the petitioner and the respondents being that of a workman and employer stands not established on record.

19. In view of the discussion and findings aforesaid, it appears to me that the avarice of the petitioner to grab government job and money had forced him to file a totally false and baseless claim. He is not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

20. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the locus standi to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

21. Not pressed. Even otherwise, the plea of delay and laches would have been relevant had the petitioner been able to prove the demand notice as well as the fact of he being a workman under the respondents for the alleged period. Hence, this issue becomes redundant.

*Relief :*

22. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered accordingly. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 2nd day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 787/2016

Date of Institution : 19.11.2016

Date of Decision : 03.03.2020

Shri Swarajdeen s/o Shri Alohideen, r/o Village Nihad, P.O. Aundh, Tehsil Nurpur,  
District Kangra, H.P. .Petitioner.

*Versus*

1. The Executive Engineer, HPPWD, Division, Nurpur, District Kangra, H.P.
2. The Executive Engineer, HPPWD Division, Jawali, District Kangra, H.P. .Respondents.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv.

For the Respondent(s) : Sh. Anil Sharma, Dy.D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Swarajdeen s/o Shri Alohideen, r/o Village Nihad, P.O. Aundh, Tehsil Nurpur, District Kangra, H.P. during July, 1990 by (1) The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. (2) The Executive Engineer, H.P.P.W.D. Division, Jawali, Tehsil Nurpur, District Kangra, H.P., who had worked on daily wages and has raised his industrial dispute after more than 20 years *vide* demand notice dated-nil-received on 13.06.2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of more than 20 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1985 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mates of the petitioner were S/Shri Jaswant Singh, Som Dutt and Baldev Singh. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. On merits, it is denied that the services of the petitioner had been engaged as beldar in the year 1985 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondents in the year 1990. It is asserted that he was engaged as a daily wager by HPPWD Sub Division Suliali, Division Jassur and had worked intermittently *w.e.f.* April, 1986 upto July, 1990. He had not completed 240 days in every calendar year except the years 1987, 1988 and 1989 respectively. The petitioner thereafter had left the work of his own sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* HP Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No. 1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondents as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondents. Neither any junior had been retained nor engaged by the respondents, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondents. After leaving the work in July, 1990, the petitioner had never approached the respondents and had raised the demand notice only in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of services of petitioner by the respondents during July, 1990 is/was legal and justified as alleged? . . . *OPP*.
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR*.
4. Whether the claim petition is bad on the ground of delay and laches as alleged? . . . *OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Affirmative

Issue No. 2 : Lump sum compensation of ₹1,25,000/-

Issue No. 3 : Negative

Issue No. 4 : Not pressed

Relief : Claim petition partly allowed awarding lump sum compensation of ₹1,25,000/- as per operative part of the Award.

### REASONS FOR FINDINGS

*Issues No.1, 2 and 4 :*

9. All these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Swarajdeen examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had not worked with the respondents. Volunteered that, he had worked regularly from the year 1985 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to

him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. It is an admitted fact of the parties that the services of the petitioner were engaged as a daily waged beldar. Although, the petitioner claimed that he had worked as a beldar from the year 1985 upto the year 1990 but, however, the respondents have produced on record his mandays chart, copy of which is Ex. RW1/E. Its perusal discloses that the services of the petitioner were engaged by respondent No. 2 in the month of April, 1986 for the first time as a daily waged beldar and he had worked as such upto July, 1990. The claimant/petitioner has not placed and exhibited on record any document to show that he had initially been engaged by the respondents in the year 1985.



20. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or he himself had abandoned the job.

21. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. The burden of proving of abandonment is upon the respondent. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. Mere statement of Shri Dinesh Kumar Dhiman, (RW1) alleging that the workman had abandoned the services is entirely insufficient to discharge the said onus. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondents for his alleged willful absence from duty. Absence from duty is a serious misconduct and the principle of natural justice did require that some sort of a fact finding inquiry was got conducted by the respondents. In the present case as it emerges from the evidence on record, so was not done by the respondents. Then, '*animus*' to abandon, it is well settled, must necessarily be shown to exist, before a case of abandonment can be said to have been made out. No evidence of any such '*animus*' on the part of the petitioner is forthcoming in the present case. Thus, the plea of abandonment put forth by the respondents/employer is not established.

22. Now the question: Whether in terminating the services of the petitioner, the respondents are proved to have violated the provisions of Section 25-F of the Act. The answer, to my thinking, is in the affirmative in view of the material on record.

23. It was specifically claimed by the petitioner that he had worked for 240 days in each calendar. So was stated by the petitioner in his chief-examination, being in the shape of affidavit Ex.PW1/A. Although, it was suggested to him in his cross-examination that he had not worked for 240 days or more in any year, but he denied the same. It is by now well settled that a denied suggestion does not amount to proof. More so, in view of the mandays chart Ex.RW1/E, the correctness of which is not disputed by the respondents. The said document is indicative of the fact that the petitioner had worked for 324 days from August, 1989 upto July, 1990 in the department. As per the reference, the services of the petitioner are alleged to have been illegally terminated during July, 1990. Section 25-F of the Act, which is alleged to have been violated by the respondent, reads thus:

***“25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until.—***

*(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.”*

24. In view of the aforesaid provisions, no workman employed in any industry, who has been in continuous service for not less than one year, can be retrenched by the employer unless he has been given one month's notice in writing indicating the reasons for retrenchment and that the period of the notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice. The expression “continuous service” has been defined in Section 25-B of the Act. It reads thus:

**“25B. Definition of continuous service. For the purposes of this Chapter,—**

*(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;*

*(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer.—*

*(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than.—*

*(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case....”*

25. Since, the petitioner is proved to have completed more than 240 days during the period of twelve calendar months anterior to the date of his retrenchment, his services could not have been terminated unless he was served with one month's notice and paid the retrenchment compensation, as envisaged under Section 25-F of the Act. In the case on hand, there is not an iota of evidence on record to show that one month's notice in writing indicating the reasons for retrenchment of the petitioner/workman had been given and that he had been paid the compensation at the time of his retrenchment. RW1 Shri Dinesh Kumar Dhiman nowhere stated in his substantive evidence that any notice of retrenchment had been given to the petitioner. It is also not his evidence that any retrenchment compensation had been paid to the petitioner. For these reasons, the final termination of the services of the petitioner by the respondents *w.e.f.* July, 1990 is patently wrong and incorrect.

26. The principle of “last come first go” is envisaged under Section 25G of the Act. The said Section provides:

**“25-G. Procedure for retrenchment.—***Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and she belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.*

27. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondents. A detail of such persons has been given in para 3 of the statement of claim. Shri Swarajdeen (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondents, and in particular respondent No.1, refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the respondents after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondents at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the

aforesaid witnesses are of no help to the petitioner to establish on record that the principle of 'last come first go' had not been adhered to by the respondents. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondents during the pendency of this case.

28. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondents had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

29. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's affidavit Ex.PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondents after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

30. The learned Deputy District Attorney for the respondents contended that there being an inordinate delay in the steps taken by the petitioner for the redressal of his grievance, his claim suffers from the vice of delay and laches, which disentitles him to the relief(s) he has prayed for. This contention, to my thinking, appears to be ill conceived. The question of delay and laches was considered by the Hon'ble Supreme Court in case titled as *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, wherein it was inter-alia held:

*"The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone".*

31. In view of the aforesaid binding precedent, it cannot be said that the petition is hit by the vice of delay and laches. Of course, the delay in raising the industrial dispute by a workman can be taken into account by the Court while granting the relief(s) claimed. The observations made by our own Hon'ble High Court in case titled as *Liaq Ram vs. State of H.P. and ors.*, 2012 (2) Him. L.R.(FB) 580 (majority view) will also be advantageous on this aspect of the matter.

32. In case titled as *Assistant Engineer Rajasthan Development Corporation and another vs. Geetam Singh* reported in 2013 (136) FLR 893 (SC), it was held by the Hon'ble Supreme Court that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute. It was also observed that the workman had worked for 286 days and had raised industrial dispute in the year 1992, whereas his services had been terminated in the year 1986 and had raised industrial dispute after six years. It was held that though the compensation awarded by the Single Judge of the Hon'ble High Court was too low and liable to

be enhanced by the Division Bench, but surely reinstatement of the workman in the facts and circumstances was not the appropriate relief and thus a lump-sum of Rs.1 lakh along-with interest @ 9% per annum had been awarded. Recently, in case titled as **Deputy Executive Engineer vs. Kuberbhai Kanjibhai 2019 (160) FLR 651**, by relying upon the cases of **Bharat Sanchar Nigam Limited vs. Bhurumal (2014) 7 SCC 177** and **District Development Officer & another vs. Satish Kantilal Amerelia 2018 (156) FLR 266 (SC)**, it has been held by the Hon'ble Supreme Court that where the workman had worked as a daily wager or muster-roll employee hardly for a few years and where the dispute had been raised by him almost after 15 years of his alleged termination, he was held entitled only for lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and other consequential benefits. Similarly, in case titled as **State of Uttarakhand & Anr. vs. Raj Kumar, 2019 (160) FLR 791**, the Hon'ble Supreme Court has held that where a daily wager has worked for about a year and a dispute was raised by him after 25 years of the alleged termination, he had no right to claim regularization and was only entitled to lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and consequential benefits. In the case on hand before this Court, the factors which have weighed are that the petitioner had worked with respondent No. 2 for 1378½ days as a non-skilled worker and had completed 240 days during the period of twelve calendar months preceding the date/month of his retrenchment. His services, as per the reference were disengaged in July, 1990 and had raised the industrial dispute by issuance of demand notice after about **twenty years i.e.** demand notice was given on 13.6.2011. Taking into consideration the factors mentioned above and the precedents laid down by the Hon'ble Supreme Court in the aforementioned cases, the petitioner is not entitled for reinstatement or for back wages, but only for a lump sum compensation.

33. In view of the discussion and findings arrived at by me above, a lump-sum compensation of ₹1,25,000/- (Rupees one lakh twenty five thousand only) would be an appropriate relief to which the petitioner is entitled to in the facts and circumstances of the given case. It is further made clear that the amount of compensation shall be paid within four months from the date of receipt of Award, failing which the petitioner would be entitled to interest @ 9% per annum from date of Award till its realization. Issues No. 1 and 2 are answered partly in the affirmative and accordingly decided in favour of the petitioner, while issue No.4 is answered in the negative and decided against the respondents.

*Issue No. 3 :*

34. It has not been shown by the respondents as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondents at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is answered in the negative and decided against the respondents.

*Relief :*

35. In the light of what has been discussed hereinabove while recording the findings on issues *supra*, respondent No. 2 is hereby directed to pay a compensation of ₹1,25,000/- (Rupees one lakh twenty five thousand only) to the petitioner in lieu of the reinstatement, back wages, seniority and past service benefits. Amount of compensation so awarded shall be paid by respondent No. 2 to the petitioner within four months from the date of receipt of Award failing which respondent No.2 shall be liable to pay interest @ 9% per annum on the said amount from the date of award till realization/deposit of the amount. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 3rd day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 773/2016

Date of Institution : 19.11.2016

Date of Decision : 03.03.2020

Shri Ranjit Singh s/o Shri Achhar Singh, r/o Village and Post Office Kopra, Tehsil Nurpur, District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P.
2. The Executive Engineer, H.P.P.W.D. Division Jawali, District Kangra, H.P. . *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondents : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Ranjit Singh s/o Shri Achhar Singh, r/o Village and Post Office Kopra, Tehsil Nurpur, District Kangra, H.P. during December, 1986 by (1) The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. (2) The Executive Engineer, H.P.P.W.D. Division, Jawali, Tehsil Nurpur, District Kangra, H.P., who had worked on daily wages and has raised his industrial dispute after more than 24 years *vide* demand notice dated-nil-received on 13.06.2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of more than 24 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis *w.e.f.* 26.6.1986 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such upto 25.3.1989. He had completed 240 days in twelve calendar months from the date of his retrenchment and many juniors were retained. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The petitioner had worked under various mates. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner along-with some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. On merits, it is denied that the services of the petitioner had been engaged as beldar *w.e.f.* 20.6.1986 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondents on 25.3.1989. It is asserted that he was engaged as a daily wager by HPPWD Sub Division Suliali, Division Jassur and had worked intermittently *w.e.f.* August, 1986 upto December, 1986. He had not completed 240 days in every calendar year. The petitioner thereafter had left the work of his own sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No.1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondents as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondents. Neither any junior had been retained nor engaged by the respondents, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondents. After leaving the work in December, 1986, the petitioner had never approached the respondents and had raised the demand notice only in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 24.3.2018:

1. Whether termination of services of the petitioner by the respondents during December, 1986 is/was illegal and unjustified as alleged? . . .*OPP*.
2. If issue No. 1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the claim petition is not maintainable in the present form? . . .*OPR*.
4. Whether the claim petition is bad on the ground of delay and laches as alleged. If so, its effect? . . .*OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Negative
Issue No. 2	: Negative
Issue No. 3	: Yes
Issue No. 4	: Not pressed
Relief	: Claim petition dismissed <i>vide</i> operative portion of the Award.

### REASONS FOR FINDINGS

*Issue No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Ranjit Singh examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No. PBW-(A)-A(1)17/94. He denied that he had not worked with the respondents. Volunteered that, he had worked regularly from the year 1986 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged

beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali along-with sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by the respondents in June, 1986 and that he had worked as such upto March, 1989. The respondents took the stand that the petitioner had been engaged as a daily waged beldar in HPPWD Sub Division Suliali *w.e.f.* August, 1986 and that he had worked intermittently upto December, 1986. The petitioner denied this case of the respondents. He while under cross-examination categorically denied that he had not worked with the department from the year 1986 upto the year 1990. However, the respondents have placed and proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. Its perusal discloses that the services of the petitioner were engaged by respondent no.2 in the month of August, 1986 for the first time as a



daily waged beldar and he had worked as such upto December, 1986. The claimant/petitioner has not placed and exhibited on record any document to show that he had regularly worked with the respondents from June, 1986 upto the March, 1989.

20. A plea was taken by the respondents that the petitioner had abandoned the work himself. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. In *Eagle Hunter Solutions Ltd. vs. Sh. Prem Chand* reported in [2019 (160) FLR 16], it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. There is nothing on the record to show that a notice was served upon the petitioner by the respondents calling upon him to resume the duties. Absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondents for his alleged willful absence from duty. Thus, the plea of abandonment put forth by the respondents/employers is not established.

21. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged termination, as envisaged under Section 25-B of the Act. As per the mandays chart Ex. RW1/E, the petitioner had only worked for 28 days, 30 days, 26 days and 29 days from August, to October and December, 1986. Thus, in his total service for a period of about four months in between August, 1986 to December, 1986, he had only worked for 113 days. Therefore, the provisions of Sections 25-F and 25-N of the Act are not attracted in this case.

22. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondents. A detail of such persons has been given in para 3 of the statement of claim. Shri Ranjit Singh (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondents, and in particular respondent No.1, refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the respondents after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondents at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the aforesaid witnesses are of no help to the petitioner to establish on record that the principle of 'last come first go' had not been adhered to by the respondents. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondents during the pendency of this case.

23. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondents had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

24. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated.

The petitioner's affidavit Ex.PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondents after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

25. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

26. Taking into account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the locus standi to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

27. Not pressed.

*Relief :*

28. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 3rd day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-  
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 777/2016

Date of Institution : 19.11.2016

Date of Decision : 09.03.2020

Shri Veer Singh s/o Shri Kashmir Singh, r/o Village Khajjan, P.O. Sadwan, Tehsil Nurpur, District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, Nurpur Division, HPPWD, Nurpur, District Kangra, H.P.
2. The Executive Engineer, Jawali Division, HPPWD, Jawali, District Kangra, H.P.  
.. Respondents.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether the alleged termination of services of Shri Veer Singh, s/o Shri Kashmir Singh, r/o Village Khajjan and P.O. Sadwan, Tehsil Nurpur District Kangra, H.P. during 1990 by (i) The Executive Engineer, Nurpur Division, HPPWD Nurpur, District Kangra, H.P. (ii) The Executive Engineer, Jawali Division, HPPWD Jawali, District Kangra, H.P., who had worked on daily wages as beldar and has raised his industrial dispute after about 20 years *vide* demand notice dated nil received in the office of Labour Officer Dharamshala on 13-06-2011 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of about 20 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1983 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mate of the petitioner was Shri Swaran Singh. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification no. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It was denied that the petitioner had worked with the department from the year 1983 upto the year 1990. It was asserted that the petitioner had never been engaged by the respondents so the question of completing 240 days and retrenchment of the petitioner did not arise. It is admitted that HPPWD Division Nurpur was involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. Since, the petitioner had never been engaged by the respondents, so the question of violation of the provisions of Section 25-B does not arise. It was denied that juniors to the petitioner had been engaged by the respondents. However, claimed that when some workers had been engaged by the respondents as per the directions of the Hon'ble High Court only then the demand notice was issued by the petitioner in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of services of petitioner by the respondents during year, 1990 is/was legal and justified as alleged? . . . *OPP.*
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR.*
4. Whether the claim petition is bad on the ground of delay and laches as alleged? . . . *OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

- |             |   |
|-------------|---|
| Issue No. 1 | : Decided accordingly   |
| Issue No. 2 | : Negative  |
| Issue No. 3 | : Affirmative   |
| Issue No. 4 | : Not pressed/redundant   |
| Relief      | : Claim petition dismissed as per the operative portion of the Award. |

**REASONS FOR FINDINGS***Issue No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Veer Singh examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No. PBW-(A)-A(1)17/94. He denied that he had never worked with the respondents. Self stated that, he had worked regularly from the year 1983 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing the days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali along-with sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by respondent No. 1 in the year 1983 and that he had worked as such upto the year 1990. It was the stand taken by the respondents that the petitioner had never been engaged by the department. Although, the petitioner (PW1) in his cross-examination denied the fact that he had never been engaged as a daily waged beldar in the year 1983 by the respondents and that he had not worked as such upto the year 1990, but, however, respondent No. 1 has proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. This mandays chart pertains to HPPWD Division Jawali. Its perusal reveals that the petitioner had not worked with respondent No. 2 even for a single day from the year 1986 upto the year 1990. No mandays chart has been proved on record by the petitioner showing him to have ever worked with respondent No. 1. In view of this fact, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that there existed a relationship of employer and employee/workman in between the parties. Significantly, the petitioner neither in his pleadings, nor in his ocular evidence has stated the date on which he was engaged by respondent No.1. There is also no pleading or evidence to the effect as to on which specific date his services stood terminated by this respondent. Only the years of joining and termination of the petitioner stand specified in the statement of claim and his statement by way of affidavit Ex. PW1/A. Although, witnesses, namely, Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3), were examined by the petitioner in support of his case, but I find that their statements are of no help to him, as their service records were not brought on the file to show that they had ever been engaged by the department. Then, it is nowhere the case of the petitioner that he had ever marked his attendance in all those seven years, the period for which he claims to have worked with respondent No.1. Had there been any attendance register in which the petitioner had appended his signatures, he ought to have placed and exhibited on record the same so as to show that his services had been engaged by the respondents from the year 1983 upto the year 1990. But, so is not the case here. No such attendance register has seen the light of the day, nor any prayer had been made by the petitioner for the production of the same from the respondents during the pendency of this case. Further, he could have easily proved the muster rolls for the period for which he had worked. But, no such muster roll has been produced. Even no appointment letter to show that the services of the petitioner had been engaged by the respondents has been placed on record by him.

20. From the ocular and documentary evidence of the respondents available on record, it can be gathered that the petitioner had never been appointed in any capacity at any point of time by the respondents.

21. Since, there is no cogent, convincing and reliable evidence on the file establishing the relationship of employer and employee/workman in between the petitioner and the respondents, therefore, the provisions of Section 25-F of the Act are not attracted in this case. The respondents can also not be held to have violated the provisions of Sections 25-G, 25-H and 25-N of the Act, as the relationship of the petitioner and the respondents being that of a workman and employer stands not established on record.

22. In view of the discussion and findings aforesaid, it appears to me that the avarice of the petitioner to grab government job and money had forced him to file a totally false and

baseless claim. He is not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

23. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

24. Not pressed. Even otherwise, the plea of delay and laches would have been relevant had the petitioner been able to prove the demand notice as well as the fact of he being a workman under the respondents for the alleged period. Hence, this issue becomes redundant.

*Relief :*

25. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered accordingly. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 9th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 13/2017

Date of Institution : 05.01.2017

Date of Decision : 09.03.2020

Shri Jan Mohhammad s/o Shri Bago Deen, r/o Village Khajjan, P.O. Sadwan, Tehsil Nurpur, District Kangra, H.P. . . . . . *Petitioner.*

*Versus*

The Executive Engineer, HPPWD Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. . . . . . *Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent : Sh. Anil Sharma, Dy. D.A.

### AWARD

The reference given below has been received from the appropriate Government for adjudication:

“Whether the alleged termination of services of Sh. Jan Mohammad s/o Sh. Bago Deen, Village-Khajjan, P.O. Sadwan, Tehsil Nurpur, Distt. Kangra, H.P. by the Executive Engineer, HPPWD Nurpur, Distt. Kangra, H.P. from 30/4/1987 who had worked on daily wages as beldar and has raised his industrial dispute after more than 24 years vide demand notice dated June, 2011, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view delay of about 24 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1986 in HPPWD Division, Nurpur and had worked as such upto the year 1990. He had completed 240 days in twelve calendar months from the date of his retrenchment and many juniors were retained. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The petitioner had worked under various mates. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner along-with some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent no.1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. The contents of the petition were denied on merits. It is denied that the services of the petitioner had been engaged as a beldar in the year 1986 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondent in the year 1990. It is asserted that he was engaged as a daily wager by HPPWD Sub Division Suliali, Division Jassur and had worked intermittently *w.e.f.* January, 1987 upto April, 1987. He had not completed 240 days in every calendar year. The petitioner thereafter had left the work of his own



sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No.1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondent as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondent. Neither any junior had been retained nor engaged by the respondent, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondent. After leaving the work in December, 1987, the petitioner had never approached the respondent and had raised the demand notice only in the year 2011, *i.e.* after about 21 years. The respondent, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 01.12.2018:

1. Whether termination of the services of petitioner by the respondent *w.e.f.* 30-04-1987 is/was legal and justified as alleged? . . . *OPP.*
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR.*
4. Whether the claim petition is bad on account of delay and laches as alleged? . . . *OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Decided accordingly
Issue No. 2	: Negative
Issue No. 3	: Yes
Issue No. 4	: Not pressed
Relief	: Claim petition dismissed <i>vide</i> operative portion of the Award.

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**REASONS FOR FINDINGS**

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*Issue No.1 and 2:*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Jan Mohammad examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had not worked with the respondent. Volunteered that, he had worked regularly from the year 1985 upto the year 1990. He denied that he had not worked for this period. He also denied that he had worked only for 26 days in the month of January, 1987 and 33 days in the month of April, 1987. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondent/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 3 of the affidavit of the petitioner are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 18.8.1994 regarding transfer of the staff.

17. Ex. RW1/D is the copy of mandays chart pertaining to the petitioner.

18. The version of the petitioner is that his services were engaged as a daily waged beldar by the respondent in the year 1986 and that he had worked as such upto the year 1990. The respondent took the stand that the petitioner had been engaged as a daily waged beldar in HPPWD Sub Division Suliali *w.e.f.* January, 1987 and that he had worked intermittently upto April, 1987. The petitioner denied this case of the respondent. He while under cross-examination categorically denied that he had not worked with the department from the year 1986 upto the year 1990. However, the respondent has placed and proved on record the mandays chart pertaining to the petitioner as Ex. RW1/D. Its perusal discloses that the services of the petitioner were engaged by the Executive Engineer, HPPWD Division Jawali in the month of January, 1987 for the first time as a daily waged beldar and he had worked as such upto April, 1987. The claimant/petitioner has not placed and exhibited on record any document to show that he had ever worked with the respondent from the year 1986 upto the year 1990.

19. A plea was taken by the respondent that the petitioner had abandoned the work himself. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. In ***Eagle Hunter Solutions Ltd. vs. Sh. Prem Chand*** reported in [2019 (160) FLR 16], it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. There is nothing on the record to show that a notice was served upon the petitioner by the respondent calling upon him to resume the duties. Absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. Thus, the plea of abandonment put forth by the respondent/employer is not established.

20. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged termination, as envisaged under Section 25-B of the Act. As per the mandays chart Ex. RW1/D, the petitioner had only worked for 26 days and 30 days in the year 1987 and that too with Executive Engineer, HPPWD Jawali. Thus, in his total service for a period of about two months in between January, 1987 to April, 1987, he had only worked for 56 days. No document has been placed on record by the petitioner to show that he had ever worked with the respondent. Therefore, the provisions of Sections 25-F and 25-N of the Act are not attracted in this case.

21. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondent. A detail of such persons has been given in para 3 of the statement of claim. Shri Jan Mohammad (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondent refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondent at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the aforesaid witnesses are of no help to the petitioner to establish on record that the principle of 'last come first go' had not been

adhered to by the respondent. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondent during the pendency of this case.

22. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondent had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

23. The petitioner's allegation that the respondent had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's affidavit Ex.PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondent after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondent cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

24. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondent.

*Issue No. 3 :*

25. Taking into account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondent and against the petitioner.

*Issue No. 4 :*

26. Not pressed.

*Relief :*

27. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 9th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

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Ref. No. : 166/2017

Date of Institution : 08.8.2017

Date of Decision : 09.03.2020

Shri Bhag Mal s/o Shri Hari Ram, r/o Village Kalhog, P.O. Boching, Tehsil Padhar, District Mandi, H.P. . *Petitioner.*

*Versus*

The Divisional Forest Officer, Forest Division, Joginder Nagar, District Mandi, H.P. . *Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. N.L. Kaundal, AR

For the Respondent : Sh. Anil Sharma, Dy.D.A.

**AWARD**

The below given reference has been received from the appropriate Government for adjudication:

“Whether the termination of services of Shri Bhag Mal s/o Shri Hari Ram, r/o Village Kalhog, P.O. Boching, Tehsil Padhar, District Mandi, H.P. from time to time during April, 2009 to January, 2016 by the Divisional Forest Officer, Forest Division, Joginder Nagar, District Mandi, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, what amount of back wages, past service benefits, seniority, regularization and compensation the above worker is entitled to from the above employer/management?”

2. The case of the petitioner, as set out in the statement of claim is that his services were engaged by the respondent on daily waged basis in the year 2002. He had worked under the supervision of Forest Range Officer, Urla upto the year 2011. The latter used to disengage his services without any written order so that he could not complete more than 240 days during the aforesaid period for the purposes of the provisions of Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to ‘the Act’ for short). The services of the petitioner had been finally terminated by the respondent in the year 2011. Fictional breaks from time to time were given by the respondent from the year 2002 upto the year 2011. It is also asserted that while terminating the services of the petitioner in the year 2011 the respondent had not followed the principle of ‘last come first go’, as persons junior to him, namely, S/Smt./Shri Bimla Devi, Kanta Devi, Purnima Devi, Raj Kumar, Raj Kumari, Surinder Kumar, Bidhi Chand, Shyam Singh, Sarita Devi, Rani Devi, Prem Singh and Kashmir Singh were retained in service without any breaks and all these workers are still working with the respondent/department. No muster roll,

casual card and wages slip had ever been provided to the petitioner by the respondent. He had raised a demand notice on 31.8.2015 against the respondent. Its copy stood forwarded to the Labour-Inspector-cum-Conciliation Officer, Joginder Nagar. Demand notice was responded to by the respondent, wherein it was denied that the petitioner was engaged in the year 2002. It was claimed that he had been engaged in the year 2009 and that he had worked as such upto the year 2011 on bill voucher basis. At the time of termination of his services, the petitioner had completed more than 240 days. The act and conduct of the respondent is highly unjustified, arbitrary, unconstitutional and against the mandatory provisions of the Act. Hence, the petition.

3. On notice, the respondent appeared. He filed a reply taking preliminary objection regarding lack of maintainability. The contents of the petition were denied on merits. However, it was asserted that the petitioner was engaged as a casual labourer in the department during April, 2009 on bill basis and for seasonal forestry works, as per the availability of work and funds. The works carried out by the forest department include plantation, fire protection and soil moisture conservation works, which all are seasonal and site specific. Depending upon the need, the department employs labour on the basis of seasonal requirement for its labour works. The demand of such labour is always fluctuating, depending upon the workload etc. It also depends upon the financial allocation to the works, to be carried out in a year. For each and every work, norms are specified. The daily waged workers are not engaged against any regular vacancy and there is no post of casual labourer in the forest department. Since, the department is not a Work Charged Establishment and the daily wagers are not engaged against regular establishment, so there is not regular budget provision for their wages in the annual budget of the department. The wages are paid out of the funds earmarked for the work, for which they are engaged. Since, there is not much work with the department, the labourers are engaged on daily or on monthly basis only. The petitioner worked intermittently, as per the availability of work and funds on seasonal forestry works on bill basis from June, 2011 and had never worked on daily waged basis. The respondent/department never terminated the services of the petitioner. He had not completed 240 days in the preceding twelve calendar months to fulfill the conditions of Section 25-B of the Act. So, there is no violation of Section 25-F of the Act. Work is provided to the seasonal/casual workers as per its availability and funds. The respondent had followed the principle of 'last come first go' strictly and no fresh hands had been engaged. The services of Smt. Bimla Devi and Smt. Kanta Devi were engaged as casual worker and they were senior to the petitioner. Smt. Promila Devi had never worked in the Division. Shri Raj Kumar was engaged in Forest Range Kamlah whereas the petitioner was engaged in Forest Range Urla. Since February, 2012, Shri Raj Kumar has not worked with the department. Smt. Raj Kumari, Shri Surinder Kumar and Shri Bidhi Chand had never worked in the department. The services of Shri Shyam Singh were engaged as a contingent paid worker under died in harness policy after the death of his father. Smt. Sarita Devi had also never worked in the said Division. Smt. Rani Devi, Shri Prem Singh and Shri Kashmir Singh were engaged for seasonal forestry works. Since the petitioner had absented himself from work, the question of his termination during the year 2015 did not arise. He had been engaged on bill voucher basis as per the directions of the Additional Chief Secretary (Forests) to the Government of H.P. *vide* Notification No. FFE-B-C(1)-35/2009 dated 28.4.2009. No junior to the petitioner had been engaged by the respondent. The petitioner is gainfully employed, being an agriculturist. Hence, it was prayed that the petition be dismissed.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 12.9.2018:

1. Whether time to time termination of the service of the petitioner by the respondent during April, 2009 to January, 2016 is/was legal and justified as alleged? . . .*OPP*.
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the petition is not maintainable in the present form as alleged? . . .*OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Decided accordingly

Issue No. 2 : Negative

Issue No. 3 : Affirmative Relief. : Petition is dismissed per operative part of the Award.

### **REASONS FOR FINDINGS**

*Issues No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Bhag Mal examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/D.

In the cross-examination, he admitted that he had worked after the year 2015 with the department. Volunteered that, he had been kept again in January, 2016 and that he was again given break in December, 2016. He denied that the department had not given any breaks after the year 2016 and that he had left the work of his own. He also denied that there is seasonal work in the department. Self stated that work is available throughout the year. He admitted that he was engaged by the department in April, 2009. He owns land, which he cultivates. He denied that he had worked on bill basis. He denied that no juniors to him were kept at work by the department. He admitted that he had not completed 240 days in any year. He admitted that Shri Love Kumar was appointed as per the orders of the Court. He also admitted that Shri Shyam Singh was appointed on compassionate grounds. He feigned ignorance that S/Smt./Shri Prumila Devi, Raj Kumari, Surinder Kumar, Bidhi Chand and Rani Devi had never worked with the department. He denied that Smt. Bimla Devi and Smt. Kanta Devi were senior to him. He was not aware that Shri Raj Kumar, Smt. Rani and Shri Prem Singh these days are not working with the department. He denied that he is making a phoney statement.

11. Conversely, Shri Rajeev Kumar, Divisional Forest Officer, Joginder Nagar (respondent) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by the respondent.

In the cross-examination, he denied that the petitioner was engaged in the year 2002. Volunteered that, as per the record the petitioner was kept at work in April, 2009. He admitted that at the time of engagement of the petitioner, no appointment letter was issued. Further, he admitted that during the period of service of the petitioner, no attendance or casual card was issued. Volunteered that, he was kept at work being of seasonal nature. He further admitted that no notification has been issued regarding the status of Forest Department as a seasonal industry. He denied that the respondent had intentionally given fictional breaks to the petitioner. He admitted that no notice had been issued for temporary work by the department. At present 27 forest workers are posted in Joginder Nagar Forest Division. He feigned ignorance that Smt. Nirmla Devi was kept at work in the year 1998. He admitted that as per Ex. RW1/C Shri Shyam Singh was engaged as a daily waged beldar. He specifically admitted that as per the Court order Shri Love Kumar has been given the seniority and continuity in service without back wages and that his services have been regularized in the month of September, 2007. He denied that Shri Shyam Singh is junior to the petitioner. Self stated that he was appointed as a daily wager on compassionate grounds and is working with the department. He admitted that no notice had been given to the petitioner to report for duty nor any departmental inquiry had been initiated against him. He was categorical that there was no agreement with the petitioner that he had been kept at work on bill basis. Volunteered that, as per the notification of the government, he was kept at work on bill basis. He admitted that the workers shown at serial No. 107 to 123 are junior to the petitioner. He further admitted that Smt. Nirmla Devi figuring at serial No.1 in Ex. PW1/C is working since the year 2000 and that she has been regularized.

12. Ex. RW1/B is the copy of the mandays chart relating to the petitioner.

13. Ex. RW1/C is the copy of letter dated 27.9.2008 regarding appointment of Sons/daughters/near relatives of government servants, who had died in harness-providing employment thereof.

14. It is the admitted case of the parties that the services of the petitioner were engaged in the month of April, 2009. Though, the respondent (RW1) in his examination-in-chief stated that the petitioner was employed as a casual labourer but, however, he has not placed and exhibited on record any document evidencing that the services of the petitioner were engaged as a casual/seasonal labourer for carrying out the seasonal works only to his (petitioner's) knowledge.

15. The version of the petitioner is that from the year of his initial engagement to the year 2011, artificial/fictional breaks in service were provided to him by the respondent. His services were wrongly and illegally terminated by the respondent in the year 2011.

16. While denying the said facts, the respondent has pleaded that the petitioner was only a casual/seasonal worker, who used to work intermittently as per his sweet will and convenience. No intentional breaks in service were provided to the petitioner at any point of time. Since the year 2009, the petitioner had been hiring the work from the respondent/department on bill basis and had been receiving the payments for the execution of the works. He is still working with the respondent on bill basis. His services were never finally terminated as alleged.



17. Firstly, I proceed to decide as to whether fictional breaks in service were given to the petitioner by the respondent as alleged?

18. Ex.RW1/B is the mandays chart relating to the petitioner. Its perusal discloses that the petitioner had worked under the respondent from the month of April, 2009 to December, 2016. The petitioner (PW1) admitted in his cross-examination that he had never worked for 240 days in any year.

19. If intentional breaks in service were being provided to the petitioner by the respondent time and again as alleged, then why he (petitioner) did not agitate the said fact earlier or at the time of the receipt of the payments for the working days actually put in by him? Ex.RW1/B unfolds that the petitioner had worked with the respondent on bill basis for the months of April, 2011 and May, 2011; January, February, March, July, October, November and December, 2016. A person not working for a single day or for less than 100 days in the whole year cannot be permitted to countenance that artificial/fictional breaks were provided to him by the respondent/ department wrongly and illegally. The fact that the petitioner had remained tight lipped and complacent about his rights for about four years and had been receiving the payments without any protests speaks volumes about the truthfulness and veracity of his claim. To my mind, a false plea of intentional breaks has been put forth by the petitioner so as to derive the benefits of regular employee with a malafide intention and ulterior motive. No artificial/fictional breaks were given to the petitioner by the respondent during the course of his employment.

20. Now about the alleged final termination of the services of the petitioner in the year 2011, as claimed.

21. The reference received from the appropriate Government was only regarding the termination of the services of the petitioner from time to time. The same has already been answered in the negative. Section 10 (4) of the Act mandates that the Labour Court/Industrial Tribunal shall confine its adjudication to the points of dispute referred to it by the appropriate Government and the matters incidental thereto. No reference has been received from the appropriate Government regarding the alleged final termination of the services of the petitioner by the respondent in the year 2011. However, looking to the statement of claim and the sworn testimony of the petitioner, it is apparent that he has claimed that his services had been finally terminated by the respondent in the year 2011. Such pleadings and evidence of the petitioner cannot be looked into by this Court, being beyond the terms of the reference. Even otherwise, it is evident from the detail of work done on bill basis by the petitioner as Ex.RW1/B that he had worked with the respondent/department also in the year 2016. Since, the petitioner had worked with the respondent after the year 2011, as he had worked in the months of January to March, July and October to December, 2016 with the department, I am at a loss to understand as to how it lies in his mouth to say that his services were disengaged by the respondent in the year 2011 in a wrongful manner. From the statement made by the petitioner (PW1), it can be gathered that even after the year 2015 he had worked with the respondent. The said fact finds support from the detail of work done on bill basis, Ex. RW1/B. In view of these facts, it can easily be said that the petitioner is not speaking the truth. His services were never finally terminated by the respondent in the year 2011, as alleged. As no retrenchment order was passed by the respondent in the year 2011, it cannot be said that the termination/retrenchment order is illegal and unjustified, as claimed.

22. Such being the situation, I have no hesitation to conclude that artificial/fictional breaks were not provided to the petitioner and that his services were not finally terminated by the respondent in the year 2011. He is not entitled to any relief.

23. Issues No. 1 and 2 are accordingly answered in the negative and decided against the petitioner.

*Issue No. 3 :*

24. Taking into account my findings on issues No. 1 to 2 above, it is held that the instant claim petition is not maintainable in the present form.

25. This issue is answered in the affirmative and in favour of the respondent.

*Relief :*

26. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 9th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 571/2015

Date of Institution : 04.12.2015

Date of Decision : 09.03.2020

Shri Both Raj s/o Shri Dhannu Ram, r/o Village Sahlui, P.O. Uteep, Tehsil Chamba, District Chamba, H.P. . .Petitioner.

*Versus*

The Executive Engineer, Killar Division, H.P.P.W.D., Killar, Tehsil Pangi, District Chamba, H.P. . .Respondent.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. O.P. Bhardwaj, Adv.

For the Respondent : Sh. Anil Sharma, DDA

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether the industrial dispute raised by the worker Shri Bodh Raj s/o Shri Dhannu Ram, r/o Village Sahlui, P.O. Uteep, Tehsil Chamba, District Chamba, H.P. before the Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. *vide* demand notice dated 01.07.2013 regarding his alleged illegal termination of service during July, 2000 suffers from delay and laches? If not, Whether termination of the Shri Bodh Raj s/o Shri Dhannu Ram, r/o Village Sahlui, P.O. Uteep, Tehsil Chamba, District Chamba, H.P. by the Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. during July, 2000 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. After that, a corrigendum reference has been received from the appropriate Government on 9th March, 2018, which reads thus:

“Whereas, a reference has been made to the Ld. Labour Court-cum-Industrial Tribunal, Dharamshala, District Kangra, H.P. *vide* notification of even No. dated 27-11-2015 for its legal adjudication. However, inadvertently the correct facts could not be mentioned about the name of the employer in the said notification. Therefore, the same may be read as “Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District Chamba, H.P.” instead of “the Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P.”.

3. The case of the petitioner as it emerges from the statement of claim is that he was initially engaged as a daily waged beldar on muster roll basis, without any appointment letter, in the year 1997. He continuously worked with intermittent breaks uptil July, 2000 with the respondent. Fictional breaks were given from time to time so that 240/180 days could not be completed in each calendar year. The breaks were to be counted as continuous service for the purpose of calculation of 240/180 days, as provided under Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). It is further the case of the petitioner that he had been retrenched without giving notice of retrenchment and compensation in lieu thereof. At the time of his termination, persons junior to him were retained in service by the respondent. The respondent had not adhered to the principle of ‘last come first go’. From the date of his disengagement, he is unemployed. He had approached the respondent time and again to re-engage his services, but in vain. The act and conduct of the respondent is illegal and unjustified. It is also violative of Sections 25-F, 25-G and 25-H of the Act. The petitioner, thus, prays for his re-engagement with all consequential benefits.

4. On notice, the respondent appeared. He filed a reply taking preliminary objection regarding lack of maintainability and that the petition was bad on account of delay and laches. The contents of the petition were denied on merits. It was asserted that the petitioner was initially engaged in the month of May, 1987 and had worked as such uptil July, 2000 intermittently. He had not completed 240 days in any calendar year. He had left the job of his own sweet will. No fictional breaks were ever given to him. He is a gainfully employed as an agriculturist. Since the petitioner has not completed 240 days in any calendar year has not fulfilled the conditions of Section 25-B of the Act, there was no need to serve any notice under Section 25-F of the Act. The respondent/department had not engaged any new workmen, as claimed by the petitioner.

Neither any junior was retained nor re-engaged by the respondent. The department had regularized only those daily waged workers who had completed the required criteria of 10/8 years with 240 days in each calendar year, as per the policy of the State Government. The respondent, thus, prays for the dismissal of the claim.

5. No rejoinder has been filed by the petitioner.

6. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Tribunal vide order dated 06.9.2019:

1. Whether the termination of the services of the petitioner by the respondent during July, 2000 *vide* demand notice dated 01-07-2013 is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue No. 1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the claim petition is bad on account of delay and laches, as alleged? . . .*OPR.*

Relief.

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed. No evidence was led by the petitioner and his evidence stood closed under the orders of the Court, as despite being afforded ample and last opportunities, he had failed to lead his evidence. Since, no evidence was led on record by the petitioner, the learned Deputy District Attorney, as per his statement made at bar, did not want to lead any evidence on behalf of the respondent.

8. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: No
Issue No. 2	: Negative
Issue No. 3	: No
Issue No. 4	: No
Relief	: Claim petition dismissed <i>vide</i> operative portion of the Award.

### REASONS FOR FINDINGS

*Issues No.1 and 2 :*

10. Being interlinked and to avoid repetition, both these issues are taken up together for discussion and disposal.

11. The statement of claim has been filed by the petitioner claiming that his services were illegally and unjustifiably terminated by the respondent in July, 2000 by violating the provisions of Sections 25-F, 25-G and 25-H of the Act. It was asserted that the petitioner had been engaged as a daily waged beldar in the year 1997 and had continuously worked as such till July, 2000. It was also his claim that fictional breaks were given to him by the department so that he could not complete 240 days, as envisaged under Section 25-B of the Act. A plea was also taken by the petitioner that the respondent had not adhered to the principle of 'last come first go', as persons junior to him were allowed to continuously work without any breaks and who had completed 240 days from the dates of their initial engagement. It was also asserted that no opportunity was afforded to the petitioner for re-engagement. These averments were required to be established on record by the petitioner by way of ocular and/or documentary evidence.

12. It is an admitted case of the parties that the services of the petitioner were engaged as a daily waged beldar.

13. It was contended by the learned Deputy District Attorney for the respondent that the petitioner had not worked for 240 days during the preceding twelve months on daily wages and, therefore, the petitioner cannot claim any protection under the provisions of the Act. The case of the petitioner is that he had completed working for more than 240 days in a year, the purported order of retrenchment is illegal, as conditions precedent as contained in Section 25-F of the Act were not complied with.

14. Section 25-B of the Act defines "continuous service". In terms of Sub Section (2) of Section 25-B if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The burden of proof is on the petitioner to show that he had worked for 240 days in the preceding twelve calendar months prior to his alleged retrenchment. The law on this issue is well settled. In **R.M. Yellatty vs. Assistant Executive Engineer, (2006) 1 SCC 106**, it has been laid by the Hon'ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

15. Applying the principles laid down in the above case by the Hon'ble Supreme Court, it was required of the petitioner to establish on record that he had worked continuously for a period 240 days in a block of twelve calendar months anterior to the date of his alleged termination, which as per the reference took place in the month of July, 2000. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months prior to the date of his alleged termination, as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

16. The principle of "last come first go" is envisaged under Section 25G of the Act. The said Section provides:

*"25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman".*

17. The petitioner in paragraph 8 of the statement of claim maintained that at the time his services were terminated, persons who were junior to him were retained in service by the respondent. This averment has not been established, as no seniority list of beldar category has been placed and exhibited on record by the petitioner to show that persons junior to him were still serving the respondent/department. Therefore, it cannot be held that the respondent had violated the provisions of Section 25-G of the Act.

18. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's statement of claim is non-existent in the names of the persons who were allegedly appointed by the respondent after his retrenchment. There is also no ocular evidence in this regard on the file. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondent cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

19. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondent.

*Issue No.3 :*

20. It has not been shown by the respondent as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is decided in favour of the petitioner and against the respondent.

*Issue No.4 :*

21. In ***Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another***, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

*"The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone".*

22. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue is decided in favour of the petitioner and against the respondent.

*Relief :*

23. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 9th day of March, 2020.

Sd/-  
**(YOGESH JASWAL),**  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 153/2017

Date of Institution : 06.7.2017

Date of Decision : 09.03.2020

Shri Budhia Ram s/o Shri Baldev Raj, r/o Village Goha, P.O. Sillagharat, Tehsil Chamba, District Chamba, H.P. . *Petitioner.*

*Versus*

Divisional Forest Officer, Division, Chamba, District Chamba, H.P. . *Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. O.P. Bhardwaj, Adv.

For the Respondent : Sh. Anil Sharma, DDA

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether time to time termination of the services of Shri Budhia Ram s/o Shri Baldev Raj, r/o Village Goha, P.O. Sillagharat, Tehsil Chamba, District Chamba, H.P. during July, 2007 to July, 2015 and finally during August, 2015 by the Divisional Forest Officer, Division Chamba, District Chamba, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that he was initially engaged as a daily waged beldar on muster-roll basis in the year 2007 in Forest Beat Sillagharat, Forest Division Chamba. He had worked with intermittent breaks upto the year 2015 with the respondent/department. Fictional breaks were given to him from time to time so that

240 days could not be completed in each calendar year, whereas persons junior to him were made to continuously work on muster rolls. While orally terminating the services of the petitioner, no one month's notice in writing and retrenchment compensation had been paid to him. The respondent had not complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). After the termination of the services of the petitioner persons junior to him were retained, so the respondent had violated the principle of 'last come first go'. New/fresh hands, namely, S/Shri Gian Chand, Jaram Singh @ Jarmo, Ramesh and Tilak Raj were engaged after the termination of the services of the petitioner. No opportunity of re-employment was afforded to the petitioner. The act and conduct of the respondent was illegal and highly unjustified as well as against the mandatory provisions of Sections 25-G and 25-H of the Act. The respondent had also violated the provisions of Articles 14, 16 and 21 of the Constitution of India. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objection regarding lack of maintainability. The contents of the petition were denied on merits. It was asserted that the petitioner was not initially engaged as a daily waged beldar, but he was engaged as a seasonal forestry worker in Sillaghrat Beat, Lower Chamba Range *w.e.f.* 7/2007 and he had worked intermittently upto August, 2015 on muster rolls basis. No fictional breaks had ever been given to him by the respondent/department. No persons junior him were also retained by the respondent. The forest works are seasonal in nature, being subject to availability of funds. The petitioner had not completed 240 days in any calendar year and so he had not fulfilled the conditions of Section 25-B of the Act. He had left the work of his own sweet will. The respondent has not violated the principle of 'last come first go'. The persons, namely, S/Shri Jaram Singh and Ramesh had never worked with the respondent, whereas Shri Shri Tilak Raj had only worked for 37 days in the years 2016 and 2017. He at present is not working with the respondent. Neither any juniors were retained nor new/fresh hands had been engaged by the respondent, so there is no violation of Sections 25-G and 25-H of the Act. The respondent, thus, prays for the dismissal of the claim.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 01.11.2018:

1. Whether time to time termination of service of the petitioner by the respondent during July, 2007 to July, 2015 is/was legal and justified as alleged? . . .*OPP.*
2. Whether final termination of service of petitioner during August, 2015 is/was legal and justified as alleged? . . .*OPP.*
3. If issue No. 1 or issue No. 2 are proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
4. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed. No evidence was led by the petitioner and his evidence stood closed under the



orders of the Court, as despite being afforded ample and last opportunities, he had failed to lead his evidence. Since, no evidence was led on record by the petitioner, the learned Deputy District Attorney, as per his statement made at bar, did not want to lead any evidence on behalf of the respondent.

7. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Discussed.

Issue No. 2 : Discussed.

Issue No. 3 : Negative.

Issue No. 4 : Not pressed.

Relief : Claim petition dismissed as per the operative portion of the Award.

### REASONS FOR FINDINGS

*Issues No. 1 to 3 :*

9. Being interlinked and to avoid repetition, all these issues are taken up together for discussion and disposal.

10. The version of the petitioner is that from the date/month of his initial engagement to the year 2015, artificial/fictional breaks in service were provided to him by the respondent.

11. While denying the said fact, the respondent has pleaded that the petitioner had been engaged for seasonal forestry works in the year 2007. He used to work intermittently as per his own sweet will and convenience. No intentional breaks in service were provided to him at any point of time.

12. Firstly, I proceed to decide as to whether fictional breaks in service were given to the petitioner by the respondent as alleged or not?

13. No ocular evidence in this regard has been led on record by the petitioner. He also failed to place and exhibit on record his mandays chart to show that artificial/fictional breaks in service were provided to him by the respondent.

14. Further, if intentional breaks in service were provided to the petitioner by the respondent time and again as alleged, then why he did not agitate the said fact earlier or at the time of receipt of payments for the working days actually put in by him. The fact that the petitioner remained tight lipped and complacent about his right for more than two years as well as received the payments without any protest speaks volumes about the truthfulness and veracity of his claim. To my mind, a false plea of intentional breaks has been put forth by the petitioner so as to derive the benefits of a regular employee with the malafide intention and ulterior motive. No artificial/fictional breaks were given to the petitioner by the respondent during the course of his employment.

15. Now comes the question as to whether in the year 2015 the services of the petitioner were finally terminated by the respondent (as alleged) or not?

16. Though, the petitioner claimed that his services had illegally and unjustifiably been terminated in the month of August, 2015 by the respondent, but in the reply the respondent took the stand that the petitioner had himself abandoned the job. It was also the stand taken by the respondent that the petitioner had not worked for 240 days during the preceding twelve months on daily wages and, therefore, the petitioner cannot claim any protection under the provisions of the Act.

17. Section 25-B of the Act defines “continuous service”. In terms of Sub Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The burden of proof is on the petitioner to show that he had worked for 240 days in the preceding twelve calendar months prior to his alleged retrenchment. The law on this issue is well settled. In **R.M. Yellatty vs. Assistant Executive Engineer, (2006) 1 SCC 106**, it has been laid by the Hon’ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

18. Applying the principles laid down in the above case by the Hon’ble Supreme Court, it was required of the petitioner to establish on record that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged final termination, which as per the reference took place in August, 2015. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months prior to the date of his alleged termination, as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

19. The principle of “last come first go” is envisaged under Section 25G of the Act. The said Section provides:

*“25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.*

20. The petitioner in paragraph 7 of the statement of claim maintained that at the time his services were terminated, the workmen, who were junior to him, were retained in service continuously without any breaks by the respondent. This averment has not been established, as no seniority list of daily waged category has been placed and exhibited on record by the petitioner to show that persons junior to him were still serving the respondent/department. Therefore, it cannot be held that the respondent had violated the provisions of Section 25-G of the Act.

21. It was also claimed by the petitioner that new appointments had been made by the respondent. However, there is no oral or documentary evidence on the file to show that the employer had offered any fresh appointment to any person to fill any vacancy in their set up. That being so, the provisions of Section 25-H of the Act are also not attracted in this case.

22. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, all these issues are decided against the petitioner and in favour of the respondent.

*Issue No. 4 :*

23. Not pressed.

*Relief :*

24. In the light of what has been discussed hereinabove while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 9th day of March, 2020.

Sd/-  
**(YOGESH JASWAL),**  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-  
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 772/2016

Date of Institution : 19.11.2016

Date of Decision : 11.03.2020

Shri Joginder Singh s/o Shri Gorkhu Ram, r/o Village and Post Office Khel, Tehsil Nurpur, District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P.

2. The Executive Engineer, H.P.P.W.D. Division Jawali, District Kangra, H.P. . *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondents : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Joginder Singh s/o Shri Gorkhu Ram, r/o Village and Post Office Khel, Tehsil Nurpur, District Kangra, H.P. during December, 1988 by (1) The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. (2) The Executive Engineer, H.P.P.W.D. Division, Jawali, Tehsil Nurpur, District Kangra, H.P., who had worked on daily wages and has raised his industrial dispute after more than 22 years *vide* demand notice dated-nil-received on 13.06.2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of more than 22 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1978 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such upto the year 1990. He had completed 240 days in twelve calendar months from the date of his retrenchment and many juniors were retained. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mates of the petitioner were S/Shri Roshan Lal and Sahib Singh. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No.1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. The contents of the petition were denied on merits. It is denied that the services of the petitioner had been engaged as a beldar in the year 1978 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondents in the year 1990. It is asserted that he was engaged as a daily wager by HPPWD Sub Division Suliali, Division Jassur and had worked intermittently *w.e.f.* April, 1986 upto December, 1988. He had not completed 240 days in every calendar year. The petitioner thereafter had left the work of his own sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-

named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No. 1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondents as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondents. Neither any junior had been retained nor engaged by the respondents, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondents. After leaving the work in December, 1986, the petitioner had never approached the respondents and had raised the demand notice only in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of services of petitioner by the respondents during December, 1988 is/was legal and justified as alleged? . . . *OPP.*
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR.*
4. Whether the claim petition is bad on the ground of delay and laches as alleged? . . . *OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Decided accordingly
Issue No. 2	: Negative
Issue No. 3	: Yes
Issue No. 4	: Not pressed
Relief	: Claim petition dismissed <i>vide</i> operative portion of the Award.

**REASONS FOR FINDINGS***Issue No. 1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Joginder Singh examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had not worked with the respondents. Volunteered that, he had worked regularly from the year 1978 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by the respondents in the year 1978 and that he had worked as such uptil the year 1990. The respondents took the stand that the petitioner had been engaged as a daily waged beldar in HPPWD Sub Division Suliali *w.e.f.* April, 1986 and that he had worked intermittently uptil December, 1988. The petitioner denied this case of the respondents. He while under cross-examination categorically denied that he had not worked with the department from the year 1978 uptil the year 1990. However, the respondents have placed and proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. Its perusal discloses that the services of the petitioner were engaged by respondent No. 2 in the month of April, 1986 for the first time as a daily waged beldar and he had worked as such uptil December, 1988. The claimant/petitioner has not placed and exhibited on record any document to show that he had regularly worked with the respondents from the year 1978 uptil the year 1990.

20. A plea was taken by the respondents that the petitioner had abandoned the work himself. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. In *Eagle Hunter Solutions Ltd. vs. Sh. Prem Chand* reported in **[2019 (160) FLR 16]**, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. There is nothing on the record to show that a notice was served upon the petitioner by the respondents calling upon him to resume the duties. Absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondents for his alleged willful absence from duty. Thus, the plea of abandonment put forth by the respondents/employers is not established.

21. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged termination, as envisaged under Section 25-B of the Act. As per the mandays chart Ex. RW1/E, the petitioner had only worked for 182½ days from March, 1987 uptil December, 1988. In terms of Sub Section (2) of Section 25-B of the Act, if a workman during a period of twelve calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. As per the reference the final termination of the petitioner took place in August, 2015. In a block of twelve calendar months anterior to the date of his alleged final termination, as per the mandays chart, the petitioner had not worked for a period of 240 days. Therefore, the provisions of Sections 25-F and 25-N of the Act are not attracted in this case.

22. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondents. A detail of such persons has been given in para 3 of the statement of claim. Shri Joginder Singh (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondents, and in particular respondent no.1, refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the respondents after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or

any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondents at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the aforesaid witnesses are of no help to the petitioner to establish on record that the principle of 'last come first go' had not been adhered to by the respondents. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondents during the pendency of this case.

23. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondents had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

24. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's affidavit Ex. PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondents after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

25. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

26. Taking into account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the locus standi to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

27. Not pressed.

*Relief :*

28. In the light of what has been discussed hereinabove, while recording the findings on issues supra, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.



Announced in the open Court today this 11th day of March, 2020.

Sd/-  
**(YOGESH JASWAL),**  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 57/2017  
Date of Institution : 24.1.2017  
Date of Decision : 12.03.2020

Shri Devi Singh s/o Shri Keshav Ram, r/o Village Chalog, P.O. Karsog, Tehsil Karsog, District Mandi, H.P. . *Petitioner.*

*Versus*

The Divisional Forest Officer, Karsog Division, Karsog, District Mandi, H.P. . *Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Gagan Guleria, Adv.  
For the Respondent : Shri Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether termination of services of Shri Devi Singh s/o Shri Keshav Ram, r/o Village Chalog, P.O. Karsog, Tehsil Karsog, District Mandi, H.P. during year 2003 by the Divisional Forest Officer, Karsog Division, Karsog, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged as a beldar in the year 1995. He had not completed 240 days in the year 1995, as the respondent had given fictional breaks to him. The petitioner had raised a demand notice in the year 2007 against his termination, but, however, the appropriate government had made a wrong reference for adjudication of the termination of the services of the petitioner in the year 2009 and

that the same was decided by this Tribunal on 15.12.2011 in his favour. Thereafter, the petitioner had filed a Writ Petition bearing No.1539/2013 before the Hon'ble High Court of Himachal Pradesh and that the Hon'ble High Court has disposed of the said writ petition and the petitioner was granted liberty to raise additional demand notice with regard to his termination in the year 2003. The petitioner had raised an additional demand notice and that the appropriate government had sent the present reference for adjudication. The petitioner was allowed to continue upto the year 2002, but his services had orally been terminated by the respondent in the year 2003 without complying with the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No retrenchment compensation had been paid to him. The respondent had not adhered to the provisions of Sections 25-F, 25-G and 25-H of the Act. He is still unemployed and that he depends upon his relatives for his livelihood. Persons junior to him, namely, S/Sh. Khub Chand, Khem Chand, Yash Pal, Khem Raj, Diwan Chand, Chint Ram, Kirpa Ram were retained in service and that they all had been regularized by the department in the year 2007. The act of the respondent was highly unjustified, arbitrary, unconstitutional and against the mandatory provisions of the Act. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability and that the claim petition has become in-fructuous. The contents of the petition were denied on merits. It is asserted that the petitioner was initially engaged as a daily waged worker in the year 1995 and had completed 240 days during the years 1996 to 2003 and 2009. No fictional breaks had ever been given to him by the respondent. He had left the work of his own sweet will. The petitioner had filed a writ petition before the Hon'ble High Court of Himachal Pradesh, which was disposed of on 23.6.2015. It was asserted that the services of the petitioner were engaged as a daily waged worker in the month of January, 1995 and he had intermittently worked with the respondent upto June, 2014. Since, the matter regarding his termination in the year 2009 had already been adjudicated, as such the question of termination of his services in the year 2003 does not arise. He was never terminated by the respondent and that no fictional breaks had been given to him. He is a gainfully employed as an agriculturist. The respondent, thus, prays for the dismissal of the claim.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 06.12.2018 :

1. Whether termination of service of the petitioner by the respondent during year 2003 is legal and justified as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition/reference is not maintainable in the present form as alleged? . . .*OPR.*
4. Whether the claim petition has become in-fructuous as alleged? . . .*OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Discussed

Issue No. 2 : Negative

Issue No. 3 : Affirmative

Issue No. 4 : Affirmative

Relief : Claim petition dismissed as per the operative portion of the Award.

### REASONS FOR FINDINGS

*Issues No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Devi Singh examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/D and Mark-A.

In the cross-examination, he denied that he had left the work of the department. He also denied that he was not removed by the department. He admitted that he had filed a case in the year 2010 regarding his termination, which was decided on 15.12.2011. He denied that the department had not given him fictional breaks. He stated that he is an agriculturist. He admitted that he had worked intermittently in the department from the year 1995 upto the year 2014. He denied that he is making a phoney statement.

11. Conversely, Shri Raj Kumar Sharma, Divisional Forest Officer, Karsog, District Mandi (respondent) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

In the cross-examination, he admitted that as per the record, the petitioner was engaged as a beldar in the year 1995. He also admitted that at the time of engaging the petitioner, no appointment letter was issued to him. Further, he admitted that during the conciliation proceedings they had filed a mandays chart along-with other documents. He admitted that as per Ex.RW1/B, the petitioner had worked for 15 days in the month of July, 2009. He denied that the petitioner was not kept at work by the department after January, 2004. He admitted that as per the mandays chart Ex. PW1/D, juniors to him were regularized in the year 2007.

12. Ex. RW1/B is the copy of mandays chart pertaining to the petitioner.

13. Ex.RW1/C and Ex.RW1/D are the copies of letters dated 27.11.2007 and 24.9.2009 regarding notice for appearance before the Conciliation Officer.

14. Ex.RW1/E is the copy of Notification dated 16.7.2010 relating to the petitioner.
15. Ex. RW1/F is the copy of Award dated 15.12.2011 passed in Reference No.223/2010 with respect to the petitioner.
16. Ex.RW1/G is the copy of letter dated 26.11.2012 regarding reference No. 223/2010 pertaining to the petitioner.
17. Ex/RW1/H is the copy of Office Order dated 30.11.2012 relating to the petitioner.
18. It is the admitted case of the parties that the services of the petitioner were engaged as a beldar in the year 1995.
19. Now, I proceed to decide as to whether in the year 2003 the services of the petitioner were finally terminated by the respondent or not?
20. The version of the petitioner is that his services were terminated by the respondent wrongly and illegally in the year 2003. It is not the case of the petitioner that the mandays chart Ex. RW1/B produced by the respondent is incorrect. Rather, he while under cross-examination was categorical that from the year 1995 upto the year 2014 he had worked with the department intermittently. The mandays chart reveals that the petitioner had worked for the month of November, 2006. After that, he had worked for the years 2008, 2009, 2010, 2012, 2013 and 2014 respectively under the respondent. Since, the petitioner served the respondent after the year 2003, I am at a loss to understand as to how it lies in his mouth to say that his services were disengaged by the respondent in the year 2003 in a wrongful manner. From the statement made by the petitioner (PW1), it can be gathered that even after the year 2003 he had worked with the respondent. The said fact finds support from the mandays chart, Ex. RW1/B. Then, indisputably Reference No. 223 of 2010 was made on 4.8.2010 and which was answered in favour of the petitioner on 15.11.2011 by this Tribunal. Copy of the Award has itself been placed on record by the petitioner as Ex.PW1/C. Similar copy of Award has also been filed by the respondent as Ex.RW1/F. As per this Award the disengagement of the petitioner *w.e.f.* February, 2010 had been set aside and the respondent had been directed to re-engage the petitioner. In view of these facts, it can easily be said that the petitioner is not speaking the truth. His services were never finally terminated by the respondent in the year 2003, as alleged. As no retrenchment order was passed by the respondent in the year 2003, it cannot be said that the termination/retrenchment order is illegal and unjustified.
21. Such being the situation, I have no hesitation to conclude that the services of the petitioner were not finally terminated by the respondent in the year, 2003. He is not entitled to any relief.
22. These issues are decided against the petitioner.

*Issues No. 3 and 4 :*

23. Taking into account my findings on issues No. 1 to 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue and that the instant claim petition is not maintainable in the present form. The same is in-fructuous.

24. These issues are decided in favour of the respondent.

*Relief :*

25. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 12th day of March, 2020.

Sd/-  
**(YOGESH JASWAL),**  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 785/2016

Date of Institution : 19.11.2016

Date of Decision : 12.03.2020

Shri Yashpal s/o Shri Chura Ram, r/o Village Jajdi, P.O. Taragarh, Tehsil Chowari,  
District Chamba, H.P. . . . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D., Division, Nurpur, District Kangra, H.P.
2. The Executive Engineer, H.P.P.W.D. Division, Jawali, District Kangra, H.P.  
. . . *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Yashpal s/o Shri Chura Ram, r/o Village Jajdi, P.O. Taragarh, Tehsil Chowari, District Chamba, H.P. during year, 1990 by (1) The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. (2) The Executive Engineer, H.P.P.W.D. Division, Jawali, Tehsil

Nurpur, District Kangra, H.P., who had worked on daily wages and has raised his industrial dispute after more than 22 years *vide* demand notice dated-nil-received on 04.03.2013, without complying the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, keeping in view of delay of more than 22 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the month of February, 1986 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mate of the petitioner was Shri Charno Ram etc. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It was denied that the petitioner had worked with the department from the year 1986 upto the year 1990. It was asserted that the petitioner had never been engaged by the respondents so the question of completing 240 days and retrenchment of the petitioner did not arise. It is admitted that HPPWD Division Nurpur was involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. Since, the petitioner had never been engaged by the respondents, so the question of violation of the provisions of Section 25-B does not arise. It was denied that juniors to the petitioner had been engaged by the respondents. However, claimed that when some workers had been engaged by the respondents as per the directions of the Hon'ble High Court only then the demand notice was issued by the petitioner in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 24.3.2018:

1. Whether termination of services of the petitioner by the respondents during year, 1990 is/was illegal and unjustified as alleged? . . .*OPP*.
2. If issue No. 1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the claim petition is not maintainable in the present form? . . .*OPR*.
4. Whether the claim petition is bad on the ground of delay and laches as alleged. If so, its effect? . . .*OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Negative

Issue No. 2 : Negative

Issue No. 3 : Affirmative

Issue No. 4 : Not pressed/redundant

Relief : Claim petition dismissed as per the operative portion of the Award.

### REASONS FOR FINDINGS

*issues No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Yashpal examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had never worked with the respondents. Self stated that, he had worked regularly from the year 1986 upto the year 1990. He denied that he

had never worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing the days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 3 of the affidavit of the petitioner are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. He denied that wrong mandays of the petitioner has been given.

14. Ex. RW1/B is the copy of mandays chart pertaining to the petitioner.

15. The version of the petitioner is that his services were engaged as a daily waged beldar by respondent No.1 in the year 1986 and that he had worked as such upto the year 1990. It was the stand taken by the respondents that the petitioner had never been engaged by the department. Although, the petitioner (PW1) in his cross-examination denied the fact that he had never been engaged as a daily waged beldar in the year 1986 by the respondents and that he had not worked as such upto the year 1990, but, however, respondent No. 1 has proved on record the mandays chart pertaining to the petitioner as Ex. RW1/B. This mandays chart pertains to HPPWD Division Jawali. Its perusal reveals that the petitioner had not worked with respondent No. 2 even for a single day from the year 1986 upto the year 1990. No mandays chart has been proved on record by the petitioner showing him to have ever worked with respondent No.1. In view of this fact, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that there existed a relationship of employer and employee/workman in between the parties. Significantly, the petitioner neither in his pleadings, nor in his ocular evidence has stated the date on which he was engaged by respondent No.1. There is also no pleading or evidence to the effect as to on which specific date his services stood terminated by this respondent. Only the years of joining and termination of the petitioner stand specified in the statement of claim and his statement by way of affidavit Ex. PW1/A. Although, witnesses,



namely, Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3), were examined by the petitioner in support of his case, but I find that their statements are of no help to him, as their service records were not brought on the file to show that they had ever been engaged by the department. Then, it is nowhere the case of the petitioner that he had ever marked his attendance in all those five years, the period for which he claims to have worked with respondent No.1. Had there been any attendance register in which the petitioner had appended his signatures, he ought to have placed and exhibited on record the same so as to show that his services had been engaged by the respondents from the year 1986 upto the year 1990. But, so is not the case here. No such attendance register has seen the light of the day, nor any prayer had been made by the petitioner for the production of the same from the respondents during the pendency of this case. Further, he could have easily proved the muster rolls for the period for which he had worked. But, no such muster roll has been produced. Even no appointment letter to show that the services of the petitioner had been engaged by the respondents has been placed on record by him.

16. From the ocular and documentary evidence of the respondents available on record, it can be gathered that the petitioner had never been appointed in any capacity at any point of time by the respondents.

17. Since, there is no cogent, convincing and reliable evidence on the file establishing the relationship of employer and employee/workman in between the petitioner and the respondents, therefore, the provisions of Section 25-F of the Act are not attracted in this case. The respondents can also not be held to have violated the provisions of Sections 25-G, 25-H and 25-N of the Act, as the relationship of the petitioner and the respondents being that of a workman and employer stands not established on record.

18. In view of the discussion and findings aforesaid, it appears to me that the avarice of the petitioner to grab government job and money had forced him to file a totally false and baseless claim. He is not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

19. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No.4*

20. Not pressed. Even otherwise, the plea of delay and laches would have been relevant had the petitioner been able to prove the demand notice as well as the fact of he being a workman under the respondents for the alleged period. Hence, this issue becomes redundant.

*Relief :*

21. In the light of what has been discussed hereinabove, while recording the findings on issues supra, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered accordingly. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 12th day of March, 2020.

Sd/-  
**(YOGESH JASWAL),**  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 152/2017

Date of Institution : 06.7.2017

Date of Decision : 12.03.2020

Shri Kishnu s/o Shri Baldev Raj, r/o Village Goha, P.O. Sillagharat, Tehsil Chamba, District Chamba, H.P. . .*Petitioner.*

*Versus*

Divisional Forest Officer, Division, Chamba, District Chamba, H.P. . .*Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. O.P. Bhardwaj, Adv.

For the Respondent : Sh. Anil Sharma, DDA

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether termination of the services of Shri Kishnu s/o Shri Baldev Raj, r/o Village Goha, P.O. Sillagharat, Tehsil Chamba, District Chamba, H.P. during August, 2015 by the Divisional Forest Officer, Division Chamba, District Chamba, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that he was initially engaged as a daily waged beldar on muster roll basis in the year 1992 in Forest Beat Sillagharat, Forest Division Chamba. He had worked with intermittent breaks upto the year 2015 with the respondent/department. Fictional breaks were given to him from time to time so that 240 days could not be completed in each calendar year, whereas persons junior to him were made to continuously work on muster-rolls. While orally terminating the services of the

petitioner, no one month's notice in writing and retrenchment compensation had been paid to him. The respondent had not complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). After the termination of the services of the petitioner persons junior to him were retained, so the respondent had violated the principle of 'last come first go'. New/fresh hands, namely, Shri Kirpo and twelve others were engaged after the termination of the services of the petitioner. No opportunity of re-employment was afforded to the petitioner. The act and conduct of the respondent was illegal and highly unjustified as well as against the mandatory provisions of Sections 25-G and 25-H of the Act. The respondent had also violated the provisions of Articles 14, 16 and 21 of the Constitution of India. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objection regarding lack of maintainability. The contents of the petition were denied on merits. It was asserted that the petitioner was not initially engaged as a daily waged beldar, but he was engaged as a seasonal forestry worker in Sillaghrat Beat, Lower Chamba Range *w.e.f.* April, 2001 and he had worked intermittently upto August, 2015 on muster rolls basis. No fictional breaks had ever been given to him by the respondent/department. No persons junior him were also retained by the respondent. The forest works are seasonal in nature, being subject to availability of funds. The petitioner had not completed 240 days in any calendar year and so he had not fulfilled the conditions of Section 25-B of the Act. He had left the work of his own sweet will. The respondent has not violated the principle of 'last come first go'. The persons as mentioned at serial No. (i) to (vi) in the claim petition are working with the respondent. They are senior to the petitioner. Neither any juniors were retained nor new/fresh hands had been engaged by the respondent, so there is no violation of Sections 25-G and 25-H of the Act. The respondent, thus, prays for the dismissal of the claim.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 01.11.2018:

1. Whether the termination of the service of the petitioner by the respondent during August, 2015 is/was legal and justified as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable in the present form? . . .*OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed. No evidence was led by the petitioner and his evidence stood closed under the orders of the Court, as despite being afforded ample and last opportunities, he had failed to lead his evidence. Since, no evidence was led on record by the petitioner, the learned Deputy District Attorney, as per his statement made at bar, did not want to lead any evidence on behalf of the respondent.

7. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Discussed.

Issue No. 2 : Negative

Issue No. 3 : Negative.

Relief : Claim petition dismissed as per the operative portion of the Award.

### REASONS FOR FINDINGS

*Issues No.1 and 2 :*

9. Being interlinked and to avoid repetition, both these issues are taken up together for discussion and disposal.

10. The version of the petitioner is that from the year 1992 upto the year 2015 he had continuously worked with intermittent breaks with the respondent. His services were wrongly and illegally terminated by the respondent in August, 2015.

11. While denying the said fact, the respondent has pleaded that the petitioner had been engaged for seasonal forestry works in the year 2001. He used to work intermittently as per his own sweet will and convenience. No intentional breaks in service were provided to him at any point of time.

12. I now proceed to decide as to whether in the year 2015 the services of the petitioner were terminated by the respondent (as alleged) or not?

13. Though, the petitioner claimed that his services had illegally and unjustifiably been terminated in the month of August, 2015 by the respondent, but in the reply the respondent took the stand that the petitioner had himself abandoned the job. It was also the stand taken by the respondent that the petitioner had not worked for 240 days during the preceding twelve months on daily wages and, therefore, the petitioner cannot claim any protection under the provisions of the Act.

14. Section 25-B of the Act defines "continuous service". In terms of Sub Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The burden of proof is on the petitioner to show that he had worked for 240 days in the preceding twelve calendar months prior to his alleged retrenchment. The law on this issue is well settled. In **R.M. Yellatty vs. Assistant Executive Engineer, (2006) 1 SCC 106**, it has been laid by the Hon'ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

15. Applying the principles laid down in the above case by the Hon'ble Supreme Court, it was required of the petitioner to establish on record that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged final

termination, which as per the reference took place in August, 2015. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months prior to the date of his alleged termination, as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

16. The principle of “last come first go” is envisaged under Section 25G of the Act. The said Section provides:

*“25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.*

17. The petitioner in paragraph 9 of the statement of claim maintained that at the time his services were terminated, the workmen, who were junior to him, were retained in service continuously without any breaks by the respondent. This averment has not been established, as no seniority list of daily waged category has been placed and exhibited on record by the petitioner to show that persons junior to him were still serving the respondent/department. Therefore, it cannot be held that the respondent had violated the provisions of Section 25-G of the Act.

18. It was also claimed by the petitioner that new appointments had been made by the respondent. However, there is no oral or documentary evidence on the file to show that the employer had offered any fresh appointment to any person to fill any vacancy in their set up. That being so, the provisions of Section 25-H of the Act are also not attracted in this case.

19. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, all these issues are decided against the petitioner and in favour of the respondent.

*Issue No. 3 :*

20. It has not been shown by the respondent as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is decided in favour of the petitioner and against the respondent.

*Relief :*

21. In the light of what has been discussed hereinabove while recording the findings on issues supra, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 12th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 779/2016

Date of Institution : 19.11.2016

Date of Decision : 13.03.2020

Shri Joginder Kumar s/o Shri Charan Dass, r/o Village Malkaul, P.O. Khawara, Tehsil Nurpur, District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, Nurpur, Division HPPWD, Nurpur, District Kangra, H.P.
2. The Executive Engineer, Jawali, Division HPPWD, Jawali, District Kangra, H.P. . *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Joginder Kumar s/o Shri Charan Dass, r/o Village Malkaul P.O. Khawara, Tehsil Nurpur, District Kangra, H.P. during 1990 by (i) The Executive Engineer, Nurpur Division, HPPWD, Nurpur, District Kangra, H.P. (ii) The Executive Engineer, Jawali Division, HPPWD Jawali, District Kangra, H.P., who had worked on daily wages basis as beldar and has raised his industrial dispute after about 22 years *vide* demand notice dated nil received in the office of Labour Officer Dharamshala on 04-03-2013 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of about 22 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the month of February, 1987 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mate of the petitioner was Shri Vikram. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification no. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It was denied that the petitioner had worked with the department from February, 1987 upto the year 1990. It was asserted that the petitioner had never been engaged by the respondents so the question of completing 240 days and retrenchment of the petitioner did not arise. It is admitted that HPPWD Division Nurpur was involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. Since, the petitioner had never been engaged by the respondents, so the question of violation of the provisions of Section 25-B does not arise. It was denied that juniors to the petitioner had been engaged by the respondents. However, claimed that when some workers had been engaged by the respondents as per the directions of the Hon'ble High Court only then the demand notice was issued by the petitioner in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of service of petitioner by the respondents during year, 1990 is/was legal and justified as alleged? ..OPP.
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable in the present form as alleged? .. OPR.

4. Whether the claim petition is bad on the ground of delay and laches as alleged? . . . OPR.

*Relief.*

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Negative

Issue No. 2 : Negative

Issue No. 3 : Affirmative

Issue No. 4 : Not pressed/redundant

Relief : Claim petition dismissed as per the operative portion of the Award.

### REASONS FOR FINDINGS

*Issues No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Joginder Kumar examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21<sup>st</sup> July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had never worked with the respondents. Self stated that, he had worked regularly from the year 1987 upto the year 1990. He denied that he had never worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing the days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.



12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

14. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

15. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

16. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

17. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

18. The version of the petitioner is that his services were engaged as a daily waged beldar by respondent No.1 in the year 1987 and that he had worked as such upto the year 1990. It was the stand taken by the respondents that the petitioner had never been engaged by the department. Although, the petitioner (PW1) in his cross-examination denied the fact that he had never been engaged as a daily waged beldar in the year 1987 by the respondents and that he had not worked as such upto the year 1990, but, however, respondent No.1 has proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. This mandays chart pertains to HPPWD Division Jawali. Its perusal reveals that the petitioner had not worked with respondent No. 2 even for a single day from the year 1987 upto the year 1990. No mandays chart has been proved on record by the petitioner showing him to have ever worked with respondent no.1. In view of this fact, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that there existed a relationship of employer and employee/workman in between the parties. Significantly, the petitioner neither in his pleadings, nor in his ocular evidence has stated the date on which he was engaged by respondent No. 1. There is also no pleading or evidence to the effect as to on which specific date his services stood terminated by this respondent. Only the years of joining and termination of the petitioner stand specified in the statement of claim and his statement by way of affidavit Ex. PW1/A. Although, witnesses, namely, Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3), were examined by the petitioner in support of his case, but I find that their statements are of no help to him, as their service records

were not brought on the file to show that they had ever been engaged by the department. Then, it is nowhere the case of the petitioner that he had ever marked his attendance in all those five years, the period for which he claims to have worked with respondent No.1. Had there been any attendance register in which the petitioner had appended his signatures, he ought to have placed and exhibited on record the same so as to show that his services had been engaged by the respondents from the year 1987 upto the year 1990. But, so is not the case here. No such attendance register has seen the light of the day, nor any prayer had been made by the petitioner for the production of the same from the respondents during the pendency of this case. Further, he could have easily proved the muster rolls for the period for which he had worked. But, no such muster roll has been produced. Even no appointment letter to show that the services of the petitioner had been engaged by the respondents has been placed on record by him.

19. From the ocular and documentary evidence of the respondents available on record, it can be gathered that the petitioner had never been appointed in any capacity at any point of time by the respondents.

20. Since, there is no cogent, convincing and reliable evidence on the file establishing the relationship of employer and employee/workman in between the petitioner and the respondents, therefore, the provisions of Section 25-F of the Act are not attracted in this case. The respondents can also not be held to have violated the provisions of Sections 25-G, 25-H and 25-N of the Act, as the relationship of the petitioner and the respondents being that of a workman and employer stands not established on record.

21. In view of the discussion and findings aforesaid, it appears to me that the avarice of the petitioner to grab government job and money had forced him to file a totally false and baseless claim. He is not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

22. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the locus standi to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

23. Not pressed. Even otherwise, the plea of delay and laches would have been relevant had the petitioner been able to prove the demand notice as well as the fact of he being a workman under the respondents for the alleged period. Hence, this issue becomes redundant.

*Relief :*

24. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered accordingly. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 13th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 790/2016

Date of Institution : 19.11.2016

Date of Decision : 13.03.2020

H.P. Shri Bhupal Singh s/o Shri Prithi Singh, r/o V.P.O. Kopra, Tehsil Nurpur, District Kangra, .Petitioner.

*Versus*

- H.P. 1. The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra,  
2. The Executive Engineer, H.P.P.W.D. Division Jawali, District Kangra, H.P. . Respondents.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondents : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether the alleged termination of services of Shri Bhupal Singh s/o Shri Prithi Singh, r/o V.P.O. Kopra, Tehsil Nurpur, District Kangra, H.P. during July, 1987 by (i) the Executive Engineer, H.P.P.W.D., Division Nurpur, District Kangra, H.P., (ii) the Executive Engineer, H.P.P.W.D., Division Jawali, District Kangra, H.P., who had worked on daily wages as beldar and has raised his industrial dispute after more than 23 years *vide* demand notice dated nil received in the Labour Office Dharamshala on 13-06-2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view delay of more than 23 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1985 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such upto the year 1990. He had completed 240 days in twelve calendar months from the date of his retrenchment and many juniors were retained. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mates of the petitioner were S/Shri Kartar Singh, Karam Singh, Jaram Singh and Harjeet Singh etc. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No.1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. The contents of the petition were denied on merits. It is denied that the services of the petitioner had been engaged as a beldar in the year 1985 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondents in the year 1990. It is asserted that he was engaged as a daily wager by HPPWD Sub Division Suliali, Division Jassur and had worked intermittently *w.e.f.* January, 1986 upto July, 1987. He had not completed 240 days in every calendar year. The petitioner thereafter had left the work of his own sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No.1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondents as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondents. Neither any junior had been retained nor engaged by the respondents, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondents. After leaving the work in July, 1987, the petitioner had never approached the respondents and had raised the demand notice only in the year 2011, i.e. after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of service of petitioner by the respondents during July, 1987 is/was legal and justified as alleged? . . . *OPP*.
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR*.
4. Whether the claim petition is bad on the ground of delay and laches as alleged? . . . *OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

- |             |   |
|-------------|---|
| Issue No. 1 | : Decided accordingly   |
| Issue No. 2 | : Negative  |
| Issue No. 3 | : Yes   |
| Issue No. 4 | : Not pressed   |
| Relief      | : Claim petition dismissed vide operative portion of the Award. |

### REASONS FOR FINDINGS

*Issue No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Bhupal Singh examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification no.PBW-(A)-A(1)17/94. He denied that he had not worked with the

respondents. Volunteered that, he had worked regularly from the year 1986 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by the respondents in the year 1985 and that he had worked as such upto the year 1990. The respondents took the stand that the petitioner had been engaged as a daily waged beldar in HPPWD Sub Division Suliali *w.e.f.* January, 1986 and that he had worked intermittently upto July, 1987. The petitioner denied this case of the respondents. He while under cross-examination categorically denied that he had not worked with the department from the year 1986 upto the

year 1990. However, the respondents have place and proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. Its perusal discloses that the services of the petitioner were engaged by respondent No. 2 in the month of January, 1986 for the first time as a daily waged beldar and he had worked as such upto July, 1987. The claimant/petitioner has not placed and exhibited on record any document to show that he had regularly worked with the respondents from the year 1985 upto the year 1990.

20. A plea was taken by the respondents that the petitioner had abandoned the work himself. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. In *Eagle Hunter Solutions Ltd. vs. Sh. Prem Chand* reported in [2019 (160) FLR 16], it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. There is nothing on the record to show that a notice was served upon the petitioner by the respondents calling upon him to resume the duties. Absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondents for his alleged willful absence from duty. Thus, the plea of abandonment put forth by the respondents/employers is not established.

21. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged termination, as envisaged under Section 25-B of the Act. As per the mandays chart Ex. RW1/E, the petitioner had only worked for 199 days from January, 1986 upto July, 1987. In terms of Sub Section (2) of Section 25-B of the Act, if a workman during a period of twelve calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. As per the reference the final termination of the petitioner took place in July, 1987. In a block of twelve calendar months anterior to the date of his alleged final termination, as per the mandays chart, the petitioner had not worked for a period of 240 days. Therefore, the provisions of Sections 25-F and 25-N of the Act are not attracted in this case.

22. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondents. A detail of such persons has been given in para 3 of the statement of claim. Shri Bhupal Singh (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondents, and in particular respondent No. 1, refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the respondents after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondents at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the aforesaid witnesses are of no help to the petitioner to establish on record that the principle of 'last come first go' had not been adhered to by the respondents. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondents during the pendency of this case.

23. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on

record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondents had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

24. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's affidavit Ex.PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondents after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

25. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

26. Taking into account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage (s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

27. Not pressed.

*Relief :*

28. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 13th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.



**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-  
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 887/2016

Date of Institution : 24.12.2016

Date of Decision : 16.03.2020

Shri Ranja Ram s/o Shri Nanku Ram, r/o V.P.O. Kopra, Tehsil Nurpur, District Kangra,  
H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D., Division, Nurpur, District Kangra, H.P.
  2. The Executive Engineer, H.P.P.W.D. Division, Jawali, District Kangra, H.P.
- . Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether the alleged termination of services of Shri Ranja Ram s/o Shri Nanku Ram, r/o V.P.O. Kopra, Tehsil Nurpur, District Kangra, H.P. during July, 1990 by (i) the Executive Engineer, H.P.P.W.D. Division, Nurpur, District Kangra, H.P. (ii) the Executive Engineer, H.P.P.W.D., Division Jawali District Kangra, H.P., who had worked on daily wages as beldar and has raised his industrial dispute after more than 20 years *vide* demand notice dated nil received in the Labour Office Dharamshala on 13-06-2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view delay of more than 20 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1985 in HPPWD Sub-Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mates of the petitioner were S/Shri Suresh, Som Dutt and Mohinder Singh etc. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged

workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No. 1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. On merits, it is denied that the services of the petitioner had been engaged as beldar in the year 1985 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondents in the year 1990. It is asserted that he was engaged as a daily wager by HPPWD Sub-Division Suliali, Division Jassur and had worked intermittently *w.e.f.* January, 1987 upto July, 1990. He had not completed 240 days in every calendar year except the year 1989. The petitioner thereafter had left the work of his own sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali vide HP Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No.1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondents as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondents. Neither any junior had been retained nor engaged by the respondents, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondents. After leaving the work in July, 1990, the petitioner had never approached the respondents and had raised the demand notice only in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 24.3.2018:

1. Whether termination of services of the petitioner by the respondents during July, 1990 is/was illegal and unjustified as alleged? ..OPP.
2. If issue No. 1 is proved in affirmative to what service benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable in the present form? ..OPR.
4. Whether the claim petition is bad on the ground of delay and laches as alleged. If so, its effect? ..OPR.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Affirmative

Issue No. 2 : Lump sum compensation of ₹1,00,000/-

Issue No. 3 : Negative

Issue No. 4 : Not pressed

Relief : Claim petition partly allowed awarding lump sum compensation of ₹1,00,000/- as per operative part of the Award.

### REASONS FOR FINDINGS

*Issues No.1, 2 and 4 :*

9. All these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Ranja Ram examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had not worked with the respondents. Volunteered that, he had worked regularly from the year 1985 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who

had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 3 of the affidavit of the petitioner are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 18.8.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of mandays chart pertaining to the petitioner.

18. It is an admitted fact of the parties that the services of the petitioner were engaged as a daily waged beldar. Although, the petitioner claimed that he had worked as a beldar from the year 1985 upto the year 1990 but, however, the respondents have produced on record his mandays chart, copy of which is Ex. RW1/D. Its perusal discloses that the services of the petitioner were engaged by respondent No. 2 in the month of January, 1987 for the first time as a daily waged beldar and he had worked as such upto July, 1990. The claimant/petitioner has not placed and exhibited on record any document to show that he had initially been engaged by the respondents in the year 1985.

19. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or he himself had abandoned the job.

20. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. The burden of proving of abandonment is upon the respondent. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. Mere statement of Shri Dinesh Kumar Dhiman, (RW1) alleging that the workman had abandoned the services is entirely insufficient to discharge the said onus. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondents for his alleged willful absence from duty. Absence from duty is a serious misconduct and the principle of natural justice did require that some sort of a fact finding inquiry was got conducted by the respondents. In the present case as it emerges from the evidence on record, so was not done by

the respondents. Then, ‘*animus*’ to abandon, it is well settled, must necessarily be shown to exist, before a case of abandonment can be said to have been made out. No evidence of any such ‘*animus*’ on the part of the petitioner is forthcoming in the present case. Thus, the plea of abandonment put forth by the respondents/employer is not established.

21. Now the question: Whether in terminating the services of the petitioner, the respondents are proved to have violated the provisions of Section 25-F of the Act. The answer, to my thinking, is in the affirmative in view of the material on record.

22. It was specifically claimed by the petitioner that he had worked for 240 days in each calendar. So was stated by the petitioner in his chief-examination, being in the shape of affidavit Ex.PW1/A. Although, it was suggested to him in his cross-examination that he had not worked for 240 days or more in any year, but he denied the same. It is by now well settled that a denied suggestion does not amount to proof. More so, in view of the mandays chart Ex.RW1/D, the correctness of which is not disputed by the respondents. The said document is indicative of the fact that the petitioner had worked for 242½ days from August, 1989 upto July, 1990 in the department. As per the reference, the services of the petitioner are alleged to have been illegally terminated during July, 1990. Section 25-F of the Act, which is alleged to have been violated by the respondent, reads thus:

**“25-F. Conditions precedent to retrenchment of workmen.—**No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) *the workman has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;*
- (b) *the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days’ average pay for every completed year of continuous service or any part thereof in excess of six months; and*
- (c) *notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.”*

23. In view of the aforesaid provisions, no workman employed in any industry, who has been in continuous service for not less than one year, can be retrenched by the employer unless he has been given one month’s notice in writing indicating the reasons for retrenchment and that the period of the notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice. The expression “continuous service” has been defined in Section 25-B of the Act. It reads thus:

**“25B. Definition of continuous service. For the purposes of this Chapter,—**

- (3) *a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;*
- (4) *where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—*

(b) *for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—*

(i) *one hundred and ninety days in the case of a workman employed below ground in a mine; and*

(ii) *two hundred and forty days, in any other case....”*

24. Since, the petitioner is proved to have completed more than 240 days during the period of twelve calendar months anterior to the date of his retrenchment, his services could not have been terminated unless he was served with one month's notice and paid the retrenchment compensation, as envisaged under Section 25-F of the Act. In the case on hand, there is not an iota of evidence on record to show that one month's notice in writing indicating the reasons for retrenchment of the petitioner/workman had been given and that he had been paid the compensation at the time of his retrenchment. RW1 Shri Dinesh Kumar Dhiman nowhere stated in his substantive evidence that any notice of retrenchment had been given to the petitioner. It is also not his evidence that any retrenchment compensation had been paid to the petitioner. For these reasons, the final termination of the services of the petitioner by the respondents *w.e.f.* July, 1990 is patently wrong and incorrect.

25. The principle of “last come first go” is envisaged under Section 25G of the Act. The said Section provides:

**“25-G. Procedure for retrenchment.**—*Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and she belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.*

26. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondents. A detail of such persons has been given in para 3 of the statement of claim. Shri Ranja Ram (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondents, and in particular respondent No.1, refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the respondents after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondents at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the aforesaid witnesses are of no help to the petitioner to establish on record that the principle of ‘last come first go’ had not been adhered to by the respondents. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondents during the pendency of this case.

27. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on

record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondents had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

28. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's affidavit Ex.PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondents after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

29. The learned Deputy District Attorney for the respondents contended that there being an inordinate delay in the steps taken by the petitioner for the redressal of his grievance, his claim suffers from the vice of delay and laches, which disentitles him to the relief(s) he has prayed for. This contention, to my thinking, appears to be ill conceived. The question of delay and laches was considered by the Hon'ble Supreme Court in case titled as **Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another, (1999) 6 SCC 82**, wherein it was *inter-alia* held:

*"The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone".*

30. In view of the aforesaid binding precedent, it cannot be said that the petition is hit by the vice of delay and laches. Of course, the delay in raising the industrial dispute by a workman can be taken into account by the Court while granting the relief(s) claimed. The observations made by our own Hon'ble High Court in case titled as **Liaq Ram vs. State of H.P. and ors., 2012 (2) Him. L.R.(FB) 580 (majority view)** will also be advantageous on this aspect of the matter.

31. In case titled as **Assistant Engineer Rajasthan Development Corporation and another vs. Geetam Singh** reported in **2013 (136) FLR 893 (SC)**, it was held by the Hon'ble Supreme Court that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute. It was also observed that the workman had worked for 286 days and had raised industrial dispute in the year 1992, whereas his services had been terminated in the year 1986 and had raised industrial dispute after six years. It was held that though the compensation awarded by the Single Judge of the Hon'ble High Court was too low and liable to be enhanced by the Division Bench, but surely reinstatement of the workman in the facts and circumstances was not the appropriate relief and thus a lump-sum of Rs.1 lakh along-with interest @ 9% per annum had been awarded. Recently, in case titled as **Deputy Executive Engineer vs. Kuberbhai Kanjibhai 2019 (160) FLR 651**, by relying upon the cases of **Bharat Sanchar Nigam Limited vs. Bhurumal (2014) 7 SCC 177** and **District Development Officer & another vs. Satish Kantilal Amerelia 2018 (156) FLR 266 (SC)**, it has been held by the Hon'ble Supreme Court that where the workman had worked as a daily wager or muster roll employee hardly for a few years and where the dispute had been raised by him almost after 15 years of his alleged termination, he was held entitled only for lump sum

monetary compensation in full and final satisfaction of his claim of reinstatement and other consequential benefits. Similarly, in case titled as ***State of Uttarakhand & Anr. vs. Raj Kumar, 2019 (160) FLR 791***, the Hon'ble Supreme Court has held that where a daily wager has worked for about a year and a dispute was raised by him after 25 years of the alleged termination, he had no right to claim regularization and was only entitled to lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and consequential benefits. In the case on hand before this Court, the factors which have weighed are that the petitioner had worked with respondent No. 2 for 820½ days as a non-skilled worker and had completed 240 days during the period of twelve calendar months preceding the date/month of his retrenchment. His services, as per the reference were disengaged in July, 1990 and had raised the industrial dispute by issuance of demand notice after about ***twenty years*** i.e. demand notice was given on 13.6.2011. Taking into consideration the factors mentioned above and the precedents laid down by the Hon'ble Supreme Court in the aforementioned cases, the petitioner is not entitled for reinstatement or for back wages, but only for a lump sum compensation.

32. In view of the discussion and findings arrived at by me above, a lump-sum compensation of ₹1,00,000/- (Rupees one lakh only) would be an appropriate relief to which the petitioner is entitled to in the facts and circumstances of the given case. It is further made clear that the amount of compensation shall be paid within four months from the date of receipt of Award, failing which the petitioner would be entitled to interest @ 9% per annum from date of Award till its realization. Issues No. 1 and 2 are answered partly in the affirmative and accordingly decided in favour of the petitioner, while issue No. 4 is answered in the negative and decided against the respondents.

*Issue No. 3 :*

33. It has not been shown by the respondents as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondents at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is answered in the negative and decided against the respondents.

*Relief :*

34. In the light of what has been discussed hereinabove while recording the findings on issues supra, respondent No. 2 is hereby directed to pay a compensation of ₹1,00,000/- (Rupees one lakh only) to the petitioner in lieu of the reinstatement, back wages, seniority and past service benefits. Amount of compensation so awarded shall be paid by respondent No. 2 to the petitioner within four months from the date of receipt of Award failing which respondent No. 2 shall be liable to pay interest @ 9% per annum on the said amount from the date of award till realization/deposit of the amount. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.



**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-  
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 786/2016

Date of Institution : 19.11.2016

Date of Decision : 16.03.2020

Shri Bashir Deen s/o Shri Roz Deen, r/o Village Nihad, P.O. Aund, Tehsil Nurpur,  
District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra,  
H.P.

2. The Executive Engineer, H.P.P.W.D. Division Jawali, District Kangra, H.P.  
. *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondents : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Bashir Deen s/o Shri Roz Deen, r/o Village Nihad, P.O. Aund, Tehsil Nurpur, District Kangra, H.P. during July, 1990 by (1) The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. (2) The Executive Engineer, H.P.P.W.D. Division Jawali, Tehsil Nurpur, District Kangra, H.P., who had worked on daily wages and has raised his industrial dispute after about 21 years vide demand notice dated-nil-received on 13.06.2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of about 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the year 1985 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such upto the year 1990. He had completed 240 days in twelve calendar months from the date of his retrenchment and many juniors were retained. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted

and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No.1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondents appeared. They filed a joint reply taking preliminary objections, regarding lack of maintainability and that the petition was bad on the grounds of delay and laches. The contents of the petition were denied on merits. It is denied that the services of the petitioner had been engaged as a beldar in the year 1985 in HPPWD Division, Nurpur. It is also denied that the petitioner was disengaged by the respondents in the year 1990. It is asserted that he was engaged as a daily wager by HPPWD Sub Division Suliali, Division Jassur and had worked intermittently *w.e.f.* January, 1990 upto June, 1990. He had not completed 240 days in every calendar year. The petitioner thereafter had left the work of his own sweet will and had never approached the department. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* HP Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It is denied that respondent No.1 had reengaged workers on 25.5.2010. Infact workers were reengaged by the respondents as per the orders of the Hon'ble High Court. It is admitted that HPPWD Divisions Nurpur and Jawali are involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. It is denied that a pick and choose policy had been adopted by the respondents. Neither any junior had been retained nor engaged by the respondents, so there was no violation of the provisions of Sections 25-G and 25-H of the Act. It is denied that the petitioner had made various requests and that assurances had been given to him by the respondents. After leaving the work in December, 1986, the petitioner had never approached the respondents and had raised the demand notice only in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of services of petitioner by the respondents during July, 1990 is/was legal and justified as alleged? ..OPP.
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable in the present form as alleged? .. OPR.
4. Whether the claim petition is bad on the ground of delay and laches as alleged? ..OPR.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Decided accordingly
Issue No. 2	: Negative
Issue No. 3	: Yes
Issue No. 4	: Not pressed
Relief	: Claim petition dismissed <i>vide</i> operative portion of the Award.

### REASONS FOR FINDINGS

#### Issue No.1 and 2

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Bashir Deen examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before the year 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had not worked with the respondents. Volunteered that, he had worked regularly from the year 1985 upto the year 1990. He denied that he had not worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the

petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali alongwith sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by the respondents in the year 1985 and that he had worked as such upto the year 1990. The respondents took the stand that the petitioner had been engaged as a daily waged beldar in HPPWD Sub Division Suliali *w.e.f.* January, 1990 and that he had worked intermittently upto June, 1990. The petitioner denied this case of the respondents. He while under cross-examination categorically denied that he had not worked with the department from the year 1985 upto the year 1990. However, the respondents have placed and proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. Its perusal discloses that the services of the petitioner were engaged by respondent No. 2 in the month of January, 1990 for the first time as a daily waged beldar and he had worked as such upto June, 1990. The claimant/petitioner has not placed and exhibited on record any document to show that he had regularly worked with the respondents from the year 1985 upto the year 1990.

20. A plea was taken by the respondents that the petitioner had abandoned the work himself. It is well known that the abandonment has to be proved like any other fact by the respondent/employer. In *Eagle Hunter Solutions Ltd. vs. Sh. Prem Chand* reported in [2019 (160) FLR 16], it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. There is nothing on the record to show that a notice was served upon the petitioner by the respondents calling upon him to resume the duties. Absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings

were initiated against the petitioner by the respondents for his alleged willful absence from duty. Thus, the plea of abandonment put forth by the respondents/employers is not established.

21. No mandays chart of the petitioner is there on the file to establish that he had worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged termination, as envisaged under Section 25-B of the Act. As per the mandays chart Ex. RW1/E, the petitioner had only worked for 134 days from January, 1990 upto June, 1990. In terms of Sub Section (2) of Section 25-B of the Act, if a workman during a period of twelve calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. As per the reference the final termination of the petitioner took place in June, 1990. In a block of twelve calendar months anterior to the date of his alleged final termination, as per the mandays chart, the petitioner had not worked for a period of 240 days. Therefore, the provisions of Sections 25-F and 25-N of the Act are not attracted in this case.

22. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondents. A detail of such persons has been given in para 3 of the statement of claim. Shri Bashir Deen (PW1) also named such persons to be junior to him in his chief-examination, being in the shape of affidavit Ex. PW1/A. The respondents, and in particular respondent No.1, refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the respondents after his alleged termination. Significantly, no seniority list has been placed and exhibited on record or any other witness examined so as to show that the persons named in the statement of claim and in his affidavit by the petitioner were junior to him and who had been retained by the respondents at the time of the termination of his services. The statements of the witnesses examined by the petitioner as Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3) are silent in this regard. There is also no whisper in their testimonies that persons junior to the petitioner are still in service. So, the testimonies of the aforesaid witnesses are of no help to the petitioner to establish on record that the principle of 'last come first go' had not been adhered to by the respondents. Then, no prayer had ever been made by the petitioner for the production of the seniority list from the respondents during the pendency of this case.

23. Faced with the situation, it was contended by the learned counsel for the petitioner that Smt. Kusum Lata is certainly junior to the petitioner, as she was engaged in service in Suliali Sub Division, HPPWD Suliali in the year, 2000. This cannot be accepted, as no document in this regard has been placed and exhibited on record by the petitioner. The only document placed on record pertaining to Smt. Kusum Lata as Ex.PW1/B only shows her to have been posted as a daily waged store clerk in HPPWD Circle, Dalhousie against a vacant post. Therefore, it cannot be said that the respondents had violated the principle of 'last come first go', as envisaged in Section 25-G of the Act.

24. The petitioner's allegation that the respondents had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner's affidavit Ex.PW1/A as also his cross-examination as PW1 are non-existent in the names of the persons who were allegedly appointed by the respondents after his retrenchment. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

25. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

Issue No. 3 :

26. Taking into account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

Issue No. 4 :

27. Not pressed.

Relief :

28. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 774/2016

Date of Institution : 19.11.2016

Date of Decision : 16.03.2020

Shri Dev Raj s/o Shri Babu Ram, r/o Village Bharnuh, P.O. Khanni, Tehsil Nurpur,  
District Kangra, H.P. . *Petitioner.*

*Versus*

1. The Executive Engineer, H.P.P.W.D., Division, Nurpur, District Kangra, H.P.

2. The Executive Engineer, H.P.P.W.D. Division, Jawali, District Kangra, H.P.

. *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Mukul Vaid, Adv. Vice

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

### AWARD

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Shri Dev Raj s/o Shri Babu Ram, r/o Village Bharnuh, P.O. Khanni, Tehsil Nurpur, District Kangra, H.P. during year, 1990 by (1) The Executive Engineer, H.P.P.W.D. Division, Nurpur, Tehsil Nurpur, District Kangra, H.P. (2) The Executive Engineer, H.P.P.W.D. Division Jawali, Tehsil Nurpur, District Kangra, H.P., who had worked on daily wages and has raised his industrial dispute after more than 21 years *vide* demand notice dated-nil-received on 29.11.2002, without complying the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, keeping in view of delay of more than 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that he was engaged by Himachal Pradesh Public Works Department on daily basis in the month of February, 1987 in HPPWD Sub Divisions-I and II, Nurpur and had worked as such till the year 1990. HPPWD Division Nurpur was involved in the construction and maintenance of roads, building and bridges, besides the repair and maintenance of tools and plants etc. and the patch work of metalled roads. The petitioner had worked for the preparation of roads with many juniors, retained by the employer and also with the reengaged employees as detailed in para No. 3 of the petition. The mates of the petitioner were S/Shri Prakash Chand, Rimal Singh, Diwan Chand, Mahashu Ram etc. More than 1000 workers were engaged for a number of years by HPPWD Division Nurpur and in the year 1990 a pick and choose policy was adopted and the petitioner alongwith some other daily waged workers were retrenched on the false assurance that they would be retained after some time, declaring them surplus. Respondent No.1 had illegally terminated/retrenched the services of the petitioner in the year 1990 and the juniors mentioned in para 3 of the petition were reengaged on 25.5.2010. After his oral termination, many verbal requests were made by the petitioner to the department and he was being given the assurance that he would be engaged after three or four months. When nothing was heard from the side of the department, the petitioner had communicated in writing for his reengagement on daily wage basis, but without success. The action of the employer in orally terminating the services of the petitioner is violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). No notice was served upon him. The provisions of Sections 25-G, 25-H and 25-N of the Act have also been violated. The petitioner is having no source of income and is unemployed since his disengagement, hence he is entitled to full back wages, as his termination/retrenchment is illegal and arbitrary. The petitioner, thus, prays for his reengagement with all consequential benefits.

2. On notice, the respondents appeared. They filed a joint reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is claimed that HPPWD Division Jassur was shifted/re-named as HPPWD Division Jawali *vide* H.P. Government Notification No. PBW-(A)-A (I) 17/1994 dated 21st July, 1994. It was denied that the petitioner had worked with the department from the year 1987 upto the year 1990. It was asserted that the petitioner had never been engaged by the respondents so the question of completing 240 days and retrenchment of the petitioner did not arise. It is admitted that HPPWD Division Nurpur was

involved in the construction and maintenance of roads, buildings and bridges, repair and maintenance of tools and plants etc. Since, the petitioner had never been engaged by the respondents, so the question of violation of the provisions of Section 25-B does not arise. It was denied that juniors to the petitioner had been engaged by the respondents. However, claimed that when some workers had been engaged by the respondents as per the directions of the Hon'ble High Court only then the demand notice was issued by the petitioner in the year 2011, *i.e.* after about 21 years. The respondents, thus, pray for the dismissal of the claim.

3. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

4. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 15.12.2018:

1. Whether termination of services of petitioner by the respondents during year, 1990 is/was legal and justified as alleged? *..OPP.*
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? *..OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? *.. OPR.*
4. Whether the claim petition is bad on the ground of delay and laches as alleged? *..OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the petitioner and the learned Deputy District Attorney for the respondents heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Decided accordingly
Issue No. 2	: Negative
Issue No. 3	: Affirmative
Issue No. 4	: Not pressed/redundant
Relief	: Claim petition dismissed as per the operative portion of the Award.

### REASONS FOR FINDINGS

*Issue No.1 and 2 :*

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.



10. The petitioner, namely, Shri Dev Raj examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/B to Ex. PW1/H.

In the cross-examination, he admitted that before 1994, HPPWD Division was at Jassur. He admitted that HPPWD Division Jawali was established on 21st July, 1994 *vide* government notification No.PBW-(A)-A(1)17/94. He denied that he had never worked with the respondents. Self stated that, he had worked regularly from the year 1987 upto the year 1990. He denied that he had never worked for this period. It was also denied by him that no juniors to him had been kept. He feigned ignorance that Smt. Kusum Lata was appointed as a daily waged beldar in HPPWD Division Dalhousie in the year 1983. He denied that he had never worked for 240 days and above in any year. However, he admitted that he owns land, which he cultivates. He also admitted that he is doing the days' drudgery privately. Self stated that, as and when the work is available. He denied that he was never disengaged by the respondents/department.

11. PW2 Shri Rahmat Ali testified that he had been engaged in the year 1978 and that he had superannuated in the year 2010 from HPPWD Division, Nurpur. He knows the petitioner, who had also been working with them in the department. He denied in the cross-examination that the petitioner had never worked in the department.

12. PW3 Shri Nek Singh stated that he was engaged in the year 1986 as a beldar in HPPWD Division, Nurpur and that he had superannuated in the year 2012. He knows the petitioner, who had also worked with them in the department. In the cross-examination, he was categorical that the petitioner had never worked with him. Volunteered that, he had worked in the other section.

13. Conversely, Shri Dinesh Kumar Dhiman, Executive Engineer, HPPWD, Division Nurpur (respondent No.1) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

14. In the cross-examination, he admitted that when the workers had been removed from HPPWD Division, Nurpur in the year 1990, he was not working in any capacity in this Division. He also admitted that in HPPWD Nurpur the works of road repair, maintenance, patch work and widening are done continuously. He admitted that the work increases during the monsoons. He further admitted that the persons named in para 3 of the claim petition, in para 2 of the affidavit of the petitioner and as shown in Ex. RW1/D are still working with HPPWD Division, Nurpur. He cannot say that when 24 workers were removed, any notice under Section 25-F was issued or not. Self stated that, they had left the work of their own. No other worker had been kept at work after 29.11.2010, except for those shown in Ex. RW1/D. He denied that wrong mandays of the petitioner has been given.

15. Ex. RW1/B is the copy of notification dated 21st July, 1994 with regard to the shifting of HPPWD Division Jassur to Jawali along-with sanctioned strength and staff.

16. Ex. RW1/C is the copy of Office Order dated 23.7.1994 regarding the closure of HPPWD Jassur Division at Nurpur and its functioning at Jawali, HPPWD Jawali Division.

17. Ex. RW1/D is the copy of another Office Order dated 29.11.2010 with regard to implementation of the award of this Court dated 22.12.2007.

18. Ex. RW1/E is the copy of mandays chart pertaining to the petitioner.

19. The version of the petitioner is that his services were engaged as a daily waged beldar by respondent No.1 in February, 1987 and that he had worked as such upto the year 1990. It was the stand taken by the respondents that the petitioner had never been engaged by the department. Although, the petitioner (PW1) in his cross-examination denied the fact that he had never been engaged as a daily waged beldar in the year 1987 by the respondents and that he had not worked as such upto the year 1990, but, however, respondent No.1 has proved on record the mandays chart pertaining to the petitioner as Ex. RW1/E. This mandays chart pertains to HPPWD Division Jawali. Its perusal reveals that the petitioner had not worked with respondent No. 2 even for a single day from the year 1986 upto the year 1990. No mandays chart has been proved on record by the petitioner showing him to have ever worked with respondent no.1. In view of this fact, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that there existed a relationship of employer and employee/workman in between the parties. Significantly, the petitioner neither in his pleadings, nor in his ocular evidence has stated the date on which he was engaged by respondent No.1. There is also no pleading or evidence to the effect as to on which specific date his services stood terminated by this respondent. Only the years of joining and termination of the petitioner stand specified in the statement of claim and his statement by way of affidavit Ex. PW1/A. Although, witnesses, namely, Shri Rahmat Ali (PW2) and Shri Nek Singh (PW3), were examined by the petitioner in support of his case, but I find that their statements are of no help to him, as their service records were not brought on the file to show that they had ever been engaged by the department. Then, it is nowhere the case of the petitioner that he had ever marked his attendance in all those four years, the period for which he claims to have worked with respondent No.1. Had there been any attendance register in which the petitioner had appended his signatures, he ought to have placed and exhibited on record the same so as to show that his services had been engaged by the respondents from February, 1987 upto the year 1990. But, so is not the case here. No such attendance register has seen the light of the day, nor any prayer had been made by the petitioner for the production of the same from the respondents during the pendency of this case. Further, he could have easily proved the muster rolls for the period for which he had worked. But, no such muster roll has been produced. Even no appointment letter to show that the services of the petitioner had been engaged by the respondents has been placed on record by him.

20. From the ocular and documentary evidence of the respondents available on record, it can be gathered that the petitioner had never been appointed in any capacity at any point of time by the respondents.

21. Since, there is no cogent, convincing and reliable evidence on the file establishing the relationship of employer and employee/workman in between the petitioner and the respondents, therefore, the provisions of Section 25-F of the Act are not attracted in this case. The respondents can also not be held to have violated the provisions of Sections 25-G, 25-H and 25-N of the Act, as the relationship of the petitioner and the respondents being that of a workman and employer stands not established on record.

22. In view of the discussion and findings aforesaid, it appears to me that the avarice of the petitioner to grab government job and money had forced him to file a totally false and baseless claim. He is not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondents.

*Issue No. 3 :*

23. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has

been instituted by the petitioner with a malafide intention to derive undue advantage(s). This issue is decided in favour of the respondents and against the petitioner.

*Issue No. 4 :*

24. Not pressed. Even otherwise, the plea of delay and laches would have been relevant had the petitioner been able to prove the demand notice as well as the fact of he being a workman under the respondents for the alleged period. Hence, this issue becomes redundant.

*Relief :*

25. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered accordingly. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

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**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

**Ref. No. : 725/2016**

**Date of Institution : 06.10.2016**

**Date of Decision : 16.03.2020**

Smt. Dharmi Devi w/o Shri Dharampal, r/o Village Chaniyar, P.O. Dhawali, Tehsil Sarkaghat, District Mandi, H.P. . Petitioner.

*Versus*

1. The Engineer-in-Chief HPPWD, Nirman Bhawan, Shimla (2)
2. The Executive Engineer, HPPWD, Division Dharampur, District Mandi, H.P. . Respondents.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Vijay Kaundal, Adv.

For the Respondent(s) : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether alleged termination of services of Smt. Dharmi Devi w/o Sh. Dharampal, Vill. Chaniyar, P.O. Dhawali, Tehsil Sarkaghat, Distt. Mandi, H.P. during 11/2003 by the Engineer-in-Chief HPPWD, Nirman Bhawan, Shimla, (2) the Executive Engineer, HPPWD, Division Dharampur, Distt. Mandi, H.P. who had worked as beldar on daily wages basis from 1/999 to 11/2003 only for 101 days, and has raised her industrial dispute *vide* demand notice dated 4/5/2015 after more than 13 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period stated as above and delay of more than 13 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?”

2. The case of the petitioner as it emerges from the statement of claim is that she was appointed as a daily waged beldar on muster roll basis in the month of January, 1999. She had worked as such upto November, 2003 and had completed more than 240 days in each calendar year, and was thus covered under Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to ‘the Act’ for short). However, her services were unlawfully terminated by the respondents without giving her notice of retrenchment and compensation in lieu thereof. It is violative of the provisions of Section 25-F of the Act. At the time of her termination persons junior to her, namely, S/Sh./Smt. Shashi Pal, Roshani Devi, Mamta Devi and Inder Singh were retained in service by the respondents, thereby violating the principle of ‘first come last go’. New/fresh hands, namely, S/Sh./Smt. Pardeep Kumar, Vipin Kumar, Lekh Raj, Subhash Chand, Sunita Devi, Kirna Devi, Sunita Devi, Ritesh Kumar, Chanchla Devi, Ramesh Kumar and Ruma Devi had also been appointed by the respondents. She was not given an opportunity of re-employment. From the date of her disengagement, she is unemployed. The act of the respondents in terminating her services was highly unjustified, arbitrary, unconstitutional and against the mandatory provisions of the Act. The petitioner, thus, prays for her re-engagement with all consequential benefits.

3. On notice, the respondents appeared. A joint reply was filed by the respondents taking preliminary objections regarding lack of maintainability and that the petition suffered from the vice of delay and laches. The contents of the petition were denied on merits. However, it is admitted that the petitioner was engaged as a daily waged beldar in the month of January, 1999 and she had worked as such upto the month of November, 2003. She thereafter had left the job of her own sweet will. She had not completed 240 days in any calendar year, so there was no need to serve any notice under Section 25-F of the Act. It is asserted that Shri Shashi Kant, Smt. Roshani Devi and others had continuously worked with the department, Smt. Mamta Devi and Shri Inder Singh were engaged on compassionate grounds. There is no violation of the provisions of Section 25-G of the Act. The question of giving opportunity for re-engagement to the petitioner did not arise, as the workers had been engaged on compassionate grounds. The provisions of Section 25-H of the Act had also not been violated. Some workers had been re-engaged as per the orders of the Court. No representation had ever been made by the petitioner, except for the demand notice served after about eighteen years in the year 2016. Other allegations denied. The respondents, thus, pray for the dismissal of the claim.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 5.4.2019:

1. Whether termination of the services of petitioner by the respondent during November, 2003 is/was illegal and unjustified as alleged? . . . *OPP*.
2. If issue No.1 is proved in affirmative, to what service benefits petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable in the present form, as alleged? . . . *OPR*.
4. Whether the claim petition suffers from the vice of delay and laches, as alleged? . . . *OPP*.

Relief.

6. Thereafter, parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Partly Yes
Issue No. 2	: Lump sum compensation of ₹1,25,000/—.
Issue No. 3	: Negative
Issue No. 4	: Negative
Relief.	: Petition is partly allowed awarding lump sum compensation of ₹1,25,000/- as per the operative part of the award.

### REASONS FOR FINDINGS

*Issues No.1, 2 and 4 :*

9. All these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Smt. Dharmi Devi examined herself as PW1 and filed her affidavit in evidence, which is exhibited as Ex. PW1/A. In her affidavit, she reiterated the contents of her statement of claim. She also filed certain documents purportedly in support of her claim, which are Mark-A and Mark-B.

In the cross-examination, she admitted that she was engaged in the month of January, 1999. She denied that she had worked intermittently from January, 1999 upto November, 2003. She also denied that no junior to her had been kept at work by the department. She admitted that

she had raised the demand notice in the year 2015. She specifically denied that she had left the work of her own sweet will after November, 2003. Volunteered that, she was removed from work. She clearly admitted that from November, 2003 upto April, 2015 she had not made any representation. Self stated that, she had made verbal requests to the department. She admitted that she does days drudgery privately. She also admitted that she has land, which she cultivates. She specifically denied that she had never been removed from work by the department. She denied that she is making a phoney statement.

11. No evidence was led by the respondents and their evidence stood closed under the orders of the Court, as despite being afforded ample and exceptional opportunities, they had failed to lead their evidence.

12. It is the admitted case of the parties that the services of the petitioner were engaged by the respondents/department as a daily waged beldar from January, 1999 upto November, 2003. The respondent has produced the mandays chart of the petitioner on record. Although, it has not been exhibited on record, but as the same is not disputed by either of the parties so, it can be looked into. Its perusal discloses that the services of the petitioner were initially engaged in the month of January, 1999 by the respondents and that she had worked as such upto November, 2003.

13. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or she herself had abandoned the job.

14. It is well known that the abandonment has to be proved like any other fact by the respondents/employer. The burden of proving of abandonment is upon the respondents. It has been laid down by our own Hon'ble High Court in case titled as *Narain Singh vs. The State of Himachal Pradesh & Ors., 2016 (3) her L.R. 1875* that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Similarly, in case titled as *State of Himachal Pradesh & another vs. Shri Partap Singh, 2017 (1) her L.R. 286*, it has been held by our own Hon'ble High Court that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer. Simply because a workman fails to report for duty, it cannot be presumed that she has left/abandoned the job. The respondents have not led any evidence on the file evidencing that the petitioner had left/abandoned the job. Thus, the plea of abandonment put forth by the respondents/employer is not established.

15. In para No.1 of the statement of claim, the petitioner has categorically pleaded that she had completed 240 days of work in a block of twelve calendar months preceding the date of her termination, i.e. November, 2003. This fact has not been specifically denied by the respondents in the corresponding para of the reply. Moreover, the petitioner (PW1) stated in the examination-in-chief that she had completed 240 days of service in a block of twelve calendar months anterior to the date of her retrenchment. This fact has not been challenged by the respondents at the time of the cross-examination. It is the basic law that if a fact goes un-rebutted and unchallenged during the cross-examination, the same is to be taken as admitted by the other side. Even otherwise, the browsing of the mandays chart would reveal that the petitioner had worked for 267 days from December, 2002 upto November, 2003.

16. Section 25-F of the Act postulates as under:—

**“25-F. Conditions precedent to retrenchment of workmen.**—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) *the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:*
- (b) *the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and*
- (c) *notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."*

17. There is not an *iota* of evidence on record to show that the petitioner/workman was paid the compensation at the time of retrenchment as envisaged under Section 25-F (b) of the Act. For this reason, the final termination of the services of the petitioner by the respondents *w.e.f.* November, 2003 is patently wrong and illegal.

18. The principle of "last come first go" is envisaged under Section 25G of the Act. The said Section provides:

*"25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and she belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman".*

19. The petitioner has categorically pleaded and deposed that persons junior to her had been retained by the respondents, but the respondents have neither placed on record any seniority list or any other record to disprove the said factum. Placed on record by the petitioner is the copy of seniority list/year-wise mandays chart in respect of Shri Shashi Kant as Mark-A. It shows that said Shri Shashi Kant had been engaged in January, 2000 by the respondents. It is, thus, clear that person junior to the petitioner had been retained by the respondents, while disengaging her services. Admittedly, the petitioner had been working with the respondents since January, 1999. In case the respondents were to disengage any workman for want of funds, it had to be the last person to be engaged and not the petitioner. It is Shri Shashi Kant, who had been engaged in January, 2000, who had to be shown the door first. The respondents, thus have failed to comply with the principle of 'last come first go', which is otherwise mandatory in nature. Therefore, it can safely be said that the respondents had also violated the provisions of Section 25-G of the Act.

20 The petitioner's allegation that the respondents had also violated the provisions of Section 25-H of the Act as well, to my mind, does not appear to have been substantiated. The petitioner's affidavit Ex.PW1/A, though gives the names of the persons who were allegedly appointed by the respondents after her retrenchment but, however, her self serving testimony, in the absence of any documentary evidence in this regard, cannot be taken as a gospel truth. The materials on record, thus, being too scanty and nebulous to lend assurance to her allegation that new/fresh hands were appointed after the termination of her services, the respondents cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

21. The learned Deputy District Attorney for the respondent contended that there being an inordinate delay in the steps taken by the petitioner for the redressal of her grievance,

her claim suffers from the vice of delay and laches, which disentitles her to the relief(s) she has prayed for. The claim as such is not maintainable. This contention, to my thinking, appears to be ill conceived. The question of delay and laches was considered by the Hon'ble Supreme Court in case titled as **Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another, (1999) 6 SCC 82**, wherein it was *inter-alia* held:

*“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.*

22. In view of the aforesaid binding precedent, it cannot be said that the petition is hit by the vice of delay and laches. Of course, the delay in raising the industrial dispute by a workman can be taken into account by the Court while granting the relief(s) claimed. The observations made by our own Hon'ble High Court in case titled as **Liaq Ram vs. State of H.P. and ors., 2012 (2) Him. L.R.(FB) 580 (majority view)** will also be advantageous on this aspect of the matter.

23. In case titled as **Assistant Engineer Rajasthan Development Corporation and another vs. Geetam Singh** reported in **2013 (136) FLR 893 (SC)**, it was held by the Hon'ble Supreme Court that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute. It was also observed that the workman had worked for 286 days and had raised industrial dispute in the year 1992, whereas his services had been terminated in the year 1986 and had raised industrial dispute after six years. It was held that though the compensation awarded by the Single Judge of the Hon'ble High Court was too low and liable to be enhanced by the Division Bench, but surely reinstatement of the workman in the facts and circumstances was not the appropriate relief and thus a lump-sum of Rs.1 lakh along-with interest @ 9% per annum had been awarded. Recently, in case titled as **Deputy Executive Engineer vs. Kuberbhai Kanjibhai** 2019 (160) FLR 651, by relying upon the cases of **Bharat Sanchar Nigam Limited vs. Bhurumal** (2014) 7 SCC 177 and **District Development Officer & another vs. Satish Kantilal Amerelia** 2018 (156) FLR 266 (SC), it has been held by the Hon'ble Supreme Court that where the workman had worked as a daily wager or muster-roll employee hardly for a few years and where the dispute had been raised by her almost after 15 years of his alleged termination, she was held entitled only for lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and other consequential benefits. Similarly, in case titled as **State of Uttarakhand & Anr. vs. Raj Kumar, 2019 (160) FLR 791**, the Hon'ble Supreme Court has held that where a daily wager has worked for about a year and a dispute was raised by her after 25 years of the alleged termination, she had no right to claim regularization and was only entitled to lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and consequential benefits. In the case on hand before this Court, the factors which have weighed are that the petitioner had worked with the respondent for 1558 days as a non-skilled worker. Her services, as per the reference were disengaged on November, 2003 and she had raised the industrial dispute by issuance of demand notice after about **thirteen years** i.e. demand notice was given on 04.5.2015. Taking into consideration the factors mentioned above and the precedents laid down by the Hon'ble Supreme Court in the aforementioned cases, the petitioner is not entitled for reinstatement or for back wages, but only for a lump sum compensation.



24. In view of the discussion and findings arrived at by me above, a lump-sum compensation of ₹1,25,000/- (Rupees one lakh twenty five thousand only) would be an appropriate relief to which the petitioner is entitled to in the facts and circumstances of the given case. It is further made clear that the amount of compensation shall be paid within four months from the date of receipt of Award, failing which the petitioner would be entitled to interest @ 9% per annum from date of Award till its realization. Issues No. 1 and 2 are answered partly in the affirmative and accordingly decided in favour of the petitioner, while issue No. 4 is answered in the negative and decided against the respondent.

*Issue No. 3 :*

25. It has not been shown by the respondent as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is answered in the negative and decided against the respondent.

*Relief :*

26. In the light of what has been discussed hereinabove while recording the findings on issues supra, the respondents are hereby directed to pay a compensation of ₹1,25,000/- (Rupees one lakh twenty five thousand only) to the petitioner in lieu of the reinstatement, back wages, seniority and past service benefits. Amount of compensation so awarded shall be paid by the respondents to the petitioner within four months from the date of receipt of Award failing which the respondents shall be liable to pay interest @ 9% per annum on the said amount from the date of award till realization/deposit of the amount. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 289/2016

Date of Institution : 10.5.2016

Date of Decision : 18.03.2020

Shri Sham Lal s/o Shri Divan Chand, r/o Village Kardial, P.O. Pharian, Tehsil Jawali,  
District Kangra, H.P. . .Petitioner.

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Versus

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Shri Arun Mahajan, Proprietor of Suvidha Gas Service, Bharat Gas Distributors, Main Bazar Jawali, Tehsil Jawali, District Kangra, H.P. . Respondent.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Rajinder Chaudhary, Adv.

For the Respondent : Sh. Rahul Gupta, Adv.

**AWARD**

The reference given below has been received from the appropriate Government for adjudication:

“Whether termination of the services of Shri Sham Lal s/o Shri Divan Chand, r/o Village Kardial, P.O. Pharian, Tehsil Jawali, District Kangra, H.P. during April, 2014 by Shri Arun Mahajan, Proprietor of Suvidha Gas Service, Bharat Gas Distributors, Main Bazar Jawali, Tehsil Jawali, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that he was initially appointed as a driver in January, 1999 on monthly salary of Rs. 1800/-. His services were disengaged orally in the month of April, 2014. The respondent is a proprietor of Suvidha Gas Service, Bharat Gas Distributors. At present ten workmen are on the rolls of the respondent. The respondent is an industrial establishment, as defined in the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). The petitioner had completed 240 days in every calendar year. His disengagement in the month of April, 2014 was unfair, unjust, illegal, arbitrary, malafide and unconstitutional. He had been continuously visiting the office of the respondent since then. He is not gainfully employed. A pick and chose policy was adopted by the respondent, as juniors to him were retained. His salary was not even paid by the respondent *w.e.f.* January, 1999 upto April, 2014, amounting to Rs. 41,28,000/-. No one month’s notice had been served, nor any salary for one month had been paid to him. Even retrenchment compensation was not paid and his services were terminated without seeking permission from the appropriate authorities, which amounts to violation of Section 25-F (a) (b) and (c) of the Act. New/fresh hands were appointed without affording any opportunity of re-engagement to him. He issued demand notice. State Government after the receipt of failure report from the Conciliation Officer, made the above mentioned reference to this Court. The petitioner, thus, prays for his re- engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability, *locus standi*, that the petitioner had not approached the Court with clean hands and had suppressed the material facts, that the petition is barred on account of delay and laches, that this tribunal has no jurisdiction and that the petition is bad for non-joinder of necessary party. The contents of the petition were denied on merits. It was specifically denied that the petitioner had been appointed as a driver on monthly salary of Rs. 1800/- and that his services were disengaged in the month of April, 2014. It is asserted that the services of the petitioner were being obtained on trip basis payment. Whenever the truck was being handed over to the petitioner to consign the gas cylinders at Lalru Bottling Plant from Jawali or bring them

from Lalru Bottling Plant to H.P. Market, the respondent had been providing him expenses for diesel etc. through vouchers. He had never been engaged as an employee/workman by the respondent. No relationship of employee and employer existed between the petitioner and the respondent. Since the petitioner was not an employee of the respondent, the question of completing 240 days in each calendar year did not arise. No salary certificate had ever been issued to the petitioner by the respondent. The respondent had not violated any of the provisions of the Act or the provisions of Articles 14, 16 & 21 of the Constitution of India. It is specifically denied that the action of the respondent was arbitrary, discriminatory and unconstitutional. No fresh appointments have been made by the respondent. The petitioner is not entitled to any relief. Hence, it is prayed that the claim petition be dismissed.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 31.10.2017:

1. Whether the termination of the services of the petitioner by the respondent during April, 2014 is/was improper and unjustified as alleged? . . . *OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . . *OPP.*
3. Whether the petitioner has no *locus standi* to file the case as alleged? . . . *OPR.*
4. Whether the claim petition is not maintainable in the present form? . . . *OPR.*
5. Whether the petitioner has not approached the Court with clean hands as alleged. If so, its effect? . . . *OPR.*
6. Whether the petitioner has suppressed the true and material facts from the Court as alleged. If so, its effect? . . . *OPR.*
7. Whether the petition is barred for delay and laches as alleged? . . . *OPR.*
8. Whether this Court has no jurisdiction to decide the case as alleged? . . . *OPR.*
9. Whether the petition is bad for non-joinder of necessary party as alleged? . . . *OPR.*

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned Counsel for the parties heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Negative

Issue No. 2 : Negative

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Issue No. 3	: Affirmative
Issue No. 4	: Affirmative
Issue No. 5	: Affirmative
Issue No. 6	: Affirmative
Issue No. 7	: Negative
Issue No. 8	: Negative
Issue No. 9	: Not pressed
Relief	: Claim petition is dismissed as per the operative part of the Award.

### REASONS FOR FINDINGS

#### ISSUES No.1 and 2

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. As per the petitioner he had been engaged as a driver by the respondent and had worked continuously *w.e.f.* January, 1999 till April, 2014, in which month his services were orally terminated without following the mandatory provisions of the Act. So, he is entitled to be re-instated in service by the respondent on the same post and with all service benefits including full back wages.

11. Per contra, the respondent contended that as the services of the petitioner were only being obtained on trip basis and payments were being made to him accordingly, so there is no relationship of employer and employee in between them. His service had never been terminated by the respondent, so she was not liable to re-instate the petitioner in service.

12. In support of his case, Shri Sham Lal (petitioner) stepped into the witness box as PW1. In his affidavit Ex.PW1/A submitted under Order 18 Rule 4 of the Code of Civil Procedure, he reiterated on oath the contents of the petition/statement of claim in its entirety.

In the cross-examination, he stated that he was not possessed of any appointment letter issued to him by the respondent for being appointed as a driver. He clearly admitted that Suvidha Gas Service was commissioned at Jawali on 11th December, 2003. He also categorically admitted that earlier to it the respondent was not having any gas agency. Volunteered that, at Nurpur a Gas Agency of Indian Oil was being run. It was owned by the Civil Supplies Corporation and it had been taken on contract by Arun Mahajan. He further admitted that Ex.PW1/G does not bear the name of the respondent. It has been issued by the Indian Oil Corporation. He specifically admitted that Indian Oil Corporation and Bharat Gas are two different companies. Further, he admitted that certificates Ex.PW1/C to Ex.PW1/F do not bear the signatures of the respondent and the stamp of Suvidha Gas Service. He denied that the respondent and Suvidha Gas Service had not kept permanent drivers on the trucks. He also denied that the drivers were being paid on trip basis. Further, he denied that he was being given trip-wise advance *vide* Ex. R1 to R 26. He admitted that bills Ex. R 27 to R 39 were deposited

by him with the respondent. Ex.PW1/K was issued to him by the Manager for taking a car loan. He admitted that the respondent had not been paying him salary every month. Self stated that as and when the need arose, rupees 2-3 thousand were being paid.

13. The petitioner has examined Shri Ashok Kumar as PW2, who tendered his affidavit Ex.PW2/A. The petitioner also examined one Shri Prem Singh, Manager, Suvidha Gas Service Bharat Gas Distributor as PW3.

In the cross-examination, PW2 Shri Ahsok Kumar admitted that he had never worked as a driver with the respondent. He also admitted that in his presence the respondent had never engaged the petitioner as a driver. Volunteered that, the petitioner had been bringing the truck to the plant. He clearly admitted that the petitioner on trip basis had been bringing the vehicle of the respondent to Lalru for filling gas and thereafter had been taking it back from there. PW3 Shri Prem Singh merely testified that certificate Ex.PW1/K had been issued by him to the petitioner for obtaining car loan from the bank.

14. Ex.PW1/B is the copy of driving licence of the petitioner.

15. Ex.PW1/C is the copy of safety training certificate dated 1.3.2011 pertaining to the petitioner.

16. Ex.PW1/D is the copy of certificate regarding three days training *w.e.f.* 14.7.2013 to 16.7.2013 relating to the petitioner.

17. Ex.PW1/E and Ex.PW1/F are the certificates regarding training imparted to the petitioner.

18. Ex.PW1/G is the copy of identity card of the petitioner issued by Indian Oil Corporation Ltd.

19. Ex.PW1/H is the copy of medical certificate dated 10.4.2014 relating to the petitioner.

20. Ex.PW1/I and Ex.PW1/J are the copies of letters dated 28.2.2011 and 22.7.2013 regarding issue of gate pass pertaining to the petitioner.

21. Ex.PW1/K is the copy of certificate dated 6.3.2014 relating to the petitioner.

22. Conversely, the respondent examined Shri Pawan Kumar as RW1 and Shri Sagar Singh as RW2, who both in their affidavits Ex.RW1/A and Ex.RW2/A respectively preferred as per Order 18 Rule 4 of the Code of Civil Procedure, have corroborated on oath the stand taken by the respondent that the petitioner was being engaged on trip basis and that he had never been engaged as a regular driver by Suvidha Gas Service.

When their cross-examinations are seen nothing has been extracted so as to dislodge them on this count.

23. Smt. Nidhi Mahajan, Proprietor of Suvidha Gas Service, Jawali appeared as RW3. In her affidavit Ex.RW3/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, she corroborated on oath the reply filed by the respondent.

In the cross-examination, she stated that she is proprietor of Suvidha Gas Service. She denied that they are also having a petrol pump. She specifically denied that their agency is

running since the year 1998. Volunteered that, it is running from the year 2003. They have four trucks to transport the cylinders. She admitted that all these trucks are in the name of the gas agency. She specifically denied that drivers and cleaners have been engaged on all these trucks by the gas agency. Self stated that they are being engaged on trip basis. She admitted that Ex.PW1/J bears the stamp of the gas agency. She further admitted that the certificates being issued by BPCL bear the name of their gas agency. She also admitted that without training BPCL does not permit the entry of drivers in their premises to load the cylinders. Further she admitted that Ex.PW1/K bears the signature of the Manager and the stamp of agency. Volunteered that, the Manager had no authority to issue such certificate. She admitted that she appoints the Manager. At present there are ten employees working in the agency. The petitioner since 2003 at intervals had been working in their agency on trip basis. He had worked as such till the year 2014. She specifically denied that they had been paying Rs.25,000/- as salary to the petitioner in the year 2014. She also denied that the petitioner had been kept on monthly basis in the agency. It was also denied by her that without any notice the petitioner had been removed from service illegally.

24. The first question, which arises for consideration, as per the arguments, is whether the petitioner was an employee of the respondent or not? It is by now well settled that the burden of proof is on the workman to establish the employer-employee relationship. In *Workmen of Nilgiri Coop. Maktg. Soc. Ltd. vs. State of Tamil Nadu, (2004) 3 SCC 514*, it has been laid down by the Hon'ble Supreme Court that it is a well settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him. It was also observed therein that where a person asserts that he was a workman of the company, and it is denied by the company, it is for him to prove the fact. It is not for the company to prove that he was not an employee of the company but of some other person.

25. In the case on hand, it was asserted by the petitioner that he was a workman of the respondent. The respondent denied this fact and claimed that the petitioner was never issued any appointment letter by the gas agency and that he was only being engaged for the transportation of gas cylinders on trip basis, for which he was being paid through vouchers. Therefore, in view of the aforesaid binding precedent, the onus lay on the petitioner to prove the employer-employee relationship in between himself and the respondent. No document has been placed and exhibited on record by the petitioner to show that he was an employee of the respondent. Rather, from the evidence available on record including the statement of the petitioner (PW1), it can be gathered that the petitioner was never appointed in any capacity at any point of time by the respondent. The petitioner while under cross-examination was categorical that he was not possessed of any appointment letter issued by the respondent engaging him as a driver. It is not disputed that the respondent is the proprietor of Suvidha Gas Service, Jawali. It was specifically claimed by Smt. Nidhi Mahajan (RW3) that Suvidha Gas Service was commissioned at Jawali on 11.12.2003. The petitioner in his substantive evidence also clearly admitted this fact. He was also categorical that earlier to it the respondent was not having any gas agency. These admissions made by the petitioner would knock the very bottom of the case set up by him in the statement of claim that he had been engaged as a driver by the respondent in January, 1999. When Suvidha Gas Service, Jawali only came into existence in December, 2003 and as per the admission made by the petitioner that the respondent earlier to it was not owning any gas agency, how it can be believed that the petitioner had been engaged as a driver by the respondent since January, 1999. Although, he has put up an explanation that the gas agency of Indian Oil was functional at Nurpur. But, the fact remains that Suvidha Gas Service, Jawali is a distributor of Bharat Gas and it is clearly admitted by the petitioner at one point of his cross-examination that Indian Oil Corporation and Bharat Gas are two different companies. Then, it is also evident from the cross-examination of the petitioner that the gas agency at Nurpur belongs to Civil Supplies Corporation and it had been taken on contract by Shri Arun Mahajan. Meaning thereby that Suvidha Gas Service, Jawali has nothing to do with the said gas agency at Nurpur. So, the

aforesaid explanation put forth by the petitioner is not tenable and is accordingly negated. Further, it is also apparent from the admission made by the petitioner towards the end part of his cross-examination that he was not being paid any monthly salary by the respondent. Then, Shri Ashok Kumar (PW2), the own witness of the petitioner clearly admitted in his substantive evidence that on trip basis the petitioner had been taking the vehicle of the respondent to Lalru for filling gas and after filling the gas, had been returning back. In view of these facts, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that the relationship of employer and employee/workman existed between the parties.

26. Our own Hon'ble High Court in case titled as *Agya Ram vs. State of H.P., 2016 (sup.)Him.L.R. 2821* has held that it is for the petitioners to prove by leading evidence to demonstrate that the respondents had the control and supervision over them while discharging the official duties. The evidence, both oral and documentary led on record by the petitioner nowhere suggested that he was able to prove employer-employee relationship between him and the respondent. No appointment letter issued by the respondent in his favour has been placed on record by the petitioner. Rather, as discussed above, no appointment letter had ever been issued nor any salary was being paid to him by the respondent. In *Mahindra and Mahindra vs. The Presiding Officer and Anr., 2013 (1) LLJ 186*, it has been held by the Hon'ble Punjab and Haryana High Court that once the workman had failed to discharge the burden cast on him as he had failed to lead any evidence to show that he was paid the salary directly by the alleged employer and further that he was working directly under the control and supervision of the alleged employer, he cannot be termed to be an employee of the said employer to entitle him to raise an industrial dispute with it. Since, as per my detailed discussion above, the petitioner has failed to discharge the burden cast upon him, as he has failed to lead evidence to show that he was appointed and was being paid the salary by the respondent, so he cannot be said to be an employee of the respondent.

27. No mandays chart of the petitioner is there on the file to establish that he worked continuously for a period of 240 days in a block of twelve calendar months anterior to the date of his alleged termination as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case. It is not stated by the petitioner in his evidence that at the time of the termination of his services, any person junior to him was retained in service by the respondent. Although, it is claimed by the petitioner that after his alleged disengagement, Tilak Raj had been engaged by the respondent but, however, it has remained a mere saying on record. Except for the self serving and oral testimony of the petitioner, there is no documentary evidence on record to show that after his alleged disengagement, new/fresh hands had been engaged by the respondent. That being so, the provisions of Sections 25-G and 25-H of the Act are also not attracted in this case.

28. Faced with the situation, it was contended for the petitioner that since in the identity card, copy of which is Ex. PW1/G, the name of the respondent has been mentioned, as such there is relationship of employer and employee between the petitioner and the respondent. This cannot be accepted. Browsing through the identity card would reveal that the name and address of the contractor has been mentioned as Mahajan Road Lines (P) Ltd. The petitioner while under cross-examination categorically admitted that Ex.PW1/G did not bear the name of the respondent and has self stated that the name Mahajan Road Lines Firm has been mentioned. There is not an iota of evidence on record to show that the respondent was the owner of Mahajan Road Lines (P) Ltd. So, this identity card is of no help to the petitioner to prove that he was an employee of the respondent. Even otherwise, in case titled as *Chandrakala vs. Marathwada Medical Research and Rural Development Institution Ltd. and ors., 2016 (1) ALL MR 350*, it has been laid down by the Hon'ble Bombay High Court that identity cards cannot be indicative of such relationship since identity card is not decisive/determinative piece of evidence of employer-employee relationship.

29. It was then contended for the petitioner that the certificates, copies of which are Ex.PW1/C to Ex.PW1/F would prove the relationship of employer and employee in between the parties. This also cannot be accepted. These are merely certificates of training undergone by the petitioner either at the Indian Training Institute and with Bharat Petroleum Corporation Limited. Merely because the name of Suvidha Gas Service is there on the certificates (Ex.PW1/D to Ex.PW1/F), that does not mean that the petitioner was an employee of the respondent. The petitioner was categorical in his substantive evidence that such certificates did not bear the signatures and stamp of the respondent. Although, the petitioner gave an explanation through these certificates that he was made to undergo the training, but it is apparent from his substantive evidence that he himself had been depositing the money regarding the training with Bharat Gas. It is not his evidence that such money was being given to him by the respondent for its deposit with Bharat Gas, being the fee for his undergoing training with the latter.

30. No doubt, the gate passes, copies of which are Ex.PW1/I and Ex.PW1/J bear the signatures of the proprietor of Suvidha Gas Service alongwith the stamp, but they also cannot be indicative of the relationship of employee and employer between the parties, since they are also not decisive/determinative piece of evidence of such relationship.

31. Placing reliance upon the certificate Ex.PW1/K, it was vociferously argued for the petitioner that this document suggests the employer-employee relationship in between the parties. I am not inclined to accept such argument. Merely because the signature and stamp for the respondent is there on the certificate (Ex.PW1/K), that does not mean that the petitioner was the employee of the respondent. Admittedly, this certificate does not bear the signature of the respondent. As per the petitioner himself, it was issued by the Manager. Shri Prem Singh (PW3), the Manager of Suvidha Gas Service also stated so. The respondent (RW3) though admitted that Ex.PW1/K bears the signature of the Manager and the stamp of the gas agency, but she was very specific that the Manager had not been authorized to issue such a certificate. Then, the petitioner himself categorically admitted that Ex.PW1/K had been issued to him for obtaining a car loan. Shri Prem Singh (PW3) also so stated in his sworn testimony before the Court. No doubt, it has been self deposed by the petitioner that the installments were to be deducted by the respondent from his salary but, in the absence of any documentary, reliable, cogent and convincing evidence, it cannot be said that the petitioner by oral and self serving statement has been able to establish this fact on record. Even otherwise, this certificate can also not be a decisive/determinative piece of evidence of employer-employee relationship in between the parties, particularly when, as discussed above, the petitioner himself admitted in his substantive evidence that no salary was being paid to him by the respondent.

32. As already mentioned, the petitioner (PW1) in his cross-examination admitted that he was not possessed of any appointment letter issued by the respondent appointing him as a driver and that Suvidha Gas Service, Jawali was only commissioned on December 11, 2003. His own witness (PW2) was categorical in his substantive evidence that the petitioner had been taking the vehicle of the respondent on trip basis. It appears to me that the avarice of the petitioner to grab the job and money has forced him to file a totally false and baseless claim. He is not entitled to any relief.

33. These issue are accordingly decided against the petitioner and in favour of the respondent.

*Issues No. 3 to 6 :*

34. Taking in to account my findings on issues No. 1 and 2 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not



maintainable in the present form. The petitioner has not approached the Court with clean hands and has suppressed material facts. The claim petition is frivolous and vexatious. It has been instituted by the petitioner with a malafide intention to derive undue advantage(s). These issues are accordingly decided in favour of the respondent and against the petitioner.

*Issue No. 7 :*

35. In ***Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another***, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

*“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.*

36. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue is decided in favour of the petitioner and against the respondent.

*Issue No. 8 :*

37. It has not been shown by the respondent as to how this Court has no jurisdiction to try the present petition/statement of claim. Moreover, this issue was not pressed for by the learned counsel appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that this Court has no jurisdiction to try the petition/statement of claim, which has been filed under the Act *ibid*. Hence, this issue is decided in favour of the petitioner and against the respondent.

*Issue No. 9 :*

38. Not pressed.

*Relief :*

39. As a sequel to my findings on the various issues above, the present claim petition being meritless, not maintainable and malafide, fails. It is, therefore, dismissed with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 18th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-  
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 320/2012  
Date of Institution : 03.9.2012  
Date of Decision : 19.03.2020

Shri Narinder Kumar s/o Shri Hans Raj, r/o Village and P.O. Pharar, Tehsil Palampur,  
District Kangra, H.P. . . . *Petitioner.*

*Versus*

The Superintending Engineer, Generation Circle, HPSEB Limited, Palampur, District  
Kangra, H.P. . . . *Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. R.S. Randhawa, Adv.

For the Respondent : Sh. Anand Sharma, Adv.

**AWARD**

The below given reference has been received from the appropriate Government for adjudication:

“Whether the action of The Superintending Engineer, Generation Circle, HPSEB Limited, Palampur, District Kangra, H.P. to appoint Shri Narinder Kumar s/o Shri Hans Raj, r/o Village and P.O. Pharar, Tehsil Palampur, District Kangra, H.P. as daily wages worker *w.e.f.* 26-11-1996 to 25-04-1998 and without terminating his services *w.e.f.* 26-04-1998 as per the provisions of the Industrial Disputes Act, 1947 and thereafter appointing him continuously from time to time on work order basis *w.e.f.* 02-06-1999 to 30-06-2008 and finally terminating *w.e.f.* 01-7-2008 is legal and justified? If not, what relief of back wages, seniority, service benefits and amount of compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as set out in the statement of claim is that his services were engaged as a daily waged beldar by the respondent on 26.11.1996. He had worked as such upto 01.07.2008 and had completed 240 days of work in each and every calendar year of his employment. On 1st July, 2008, his services were abruptly terminated by the respondent. Before terminating his services neither any notice was given nor the retrenchment compensation was paid to him. At the time of the termination of his services, his batch-mates, namely, Shri Sunka Ram and Shri Vinay Kumar etc. were retained in service by the respondent. The services of Shri Sunka Ram etc. have been regularized by the respondent in the year 2011. The petitioner had requested the respondent orally as well as through legal notices to intimate him the reasons for ousting him from service, but without success. Shri Sukhnanai (JE), Shri Ashwani Sood (SDO), Shri Dogra (SE), Shri S.K. Aggarwal (SE), Shri Anil Sharma (SE) and Shri Ashutosh Mahajan used to get unofficial works done from him during the period of his engagement. The

act and conduct of the respondent is illegal and unjustified. It is also violative of Section 25-F of the Industrial Disputes Act, 1947 (14 of 1947, 'the Act' for short). The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objection regarding lack of maintainability and that the petition is barred by limitation. The contents of the petition were denied on merits. It is asserted that the services of the petitioner were engaged as a daily waged beldar on muster roll basis only upto 25.4.1998, with certain interruptions. Thereafter, he had worked with Himachal Pradesh State Electricity Board (HPSEB) as a contractor. He was given the contract for cleaning the jungle, uprooting of rank, vegetation, grass and bushes etc. as well as the removal of all kinds of rubbish upto a distance of 20 meters outside the periphery of HPSEB Colony and Rest House area at Palampur. Certain other jobs were also assigned him on contract basis. He was firstly provided the work as a contractor on 02.6.1999. Thereafter, he had worked as such on different dates subject to the need and availability of the work. He had never worked as an employee of the HPSEB after 25.4.1998. His services were never disengaged as alleged. He is not a workman as defined in the Act. Last assignment as contractor was given to him on 27.4.2008 for deploying three beldars *w.e.f.* 10.4.2008 to 30.6.2008. Since he was not an employee of the HPSEB, the question of his completing 240 days of work in each and every calendar year of his employment or the termination and regularization of his services does not arise. He has no claim against Shri Sunka Ram and others. He was never deployed for doing any unofficial work. The notices served by him were duly responded to. No provision of the Act has been violated. The claim petition preferred by him is false, vexatious and frivolous to his knowledge. The respondent, thus, prays for the dismissal of the claim petition.

4. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 04.3.2013:

1. Whether the final termination of the services of the petitioner by the respondent *w.e.f.* 01.7.2008 is illegal and unjustified as alleged? . . .*OPP.*
2. Whether the claim petition is not maintainable in the present form? . . .*OPR.*
3. Whether the petition is hit by the vice of delay and laches? . . .*OPR.*
4. Relief

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned counsel for the parties heard and records gone through.

8. Be it recorded here that the present claim petition was dismissed with costs by the predecessor-in-office of mine *vide* Award dated 4.7.2013. Against the said Award Civil Writ Petition was preferred by the petitioner before the Hon'ble High Court of H.P. The same was partly allowed by setting aside the afore-dated Award of this Court. The matter stood remanded back to this Court with the direction to decide the same afresh after affording opportunity of being heard to the parties.

9. In compliance of the aforesaid directions passed by the Hon'ble High Court of H.P. in CWP No.5628 of 2013 decided on 18.9.2019, the arguments of both the parties were heard afresh on 28.2.2020.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : No

Issue No. 2 : Yes

Issue No. 3 : No

Relief : Claim petition is dismissed as per the operative part of the Award.

### REASONS FOR FINDINGS

#### *Issue No. 1 :*

11. As per the petitioner he had been engaged as a daily waged beldar by the respondent and had worked continuously *w.e.f.* 26.11.1996 till 1.7.2008, in which month his services were orally terminated without following the mandatory provisions of the Act. So, he is entitled to be re-instated in service by the respondent on the same post and with all service benefits including full back wages.

12. Per contra, the respondent contended that initially the services of the petitioner were engaged as a daily wager on 26.11.1996. He had worked intermittently upto 25.4.1998. Thereafter, he had not worked as a daily wager and was not an employee of the Board. He had worked as a contractor with the Board upto 30.6.2008 as per the work orders awarded in his favour. Since the petitioner was not a workman within the definition of Section 2(s) of the Act, so there was no relationship of employer and employee in between the parties. Hence, the question of retrenchment of his services in violation of the provisions of the Act does not arise and the claim petition deserves to be rejected.

13. The petitioner, namely, Shri Narinder Kumar examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PA. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are exhibited as Ex. PW1/A to Ex. PW1/C.

In the cross-examination, he admitted that he had worked on the muster rolls *w.e.f.* 26.11.1996 to 25.4.1998 with certain breaks. He denied that after 25.4.1998 he had left the job of his own sweet will and had started working with the department as a contractor. He also denied that the first work order was provided to him by the department on 02.6.1999 and he had received the payment for the work done by him. He admitted his signatures on work orders, copies of which are Ex. R1 to Ex. R10. He specifically denied that after 25.4.1998 he had never served on muster roll basis, as he had started working as a contractor. He denied that to gain the employment in an unlawful manner he has instituted a false petition.

14. To rebut the evidence of the petitioner, Shri Kuldeep Sharma, Assistant Engineer, Bassi Power House, Joginder Nagar stepped into the witness box as RW1. In his affidavit Ex. RW1/A submitted under Order 18 Rule 4 Code of Civil Procedure, he corroborated on oath the contents of the reply filed by the respondent.

In the cross-examination, he stated that the petitioner had worked with them on muster roll basis from the year 1996 upto the year 1998. He was being paid for the days he had worked as per the muster rolls. He specifically denied that from the year 1998 upto the year 2008 also the petitioner had worked with them on muster roll basis. Volunteered that, he had worked as a contractor on work order basis and had been receiving the payments. He specifically denied that the petitioner had worked with them for twelve years. He further denied that the services of the petitioner had been unlawfully terminated.

15. Ex. RA is the year-wise mandays chart in respect of the petitioner. It depicts that the petitioner worked as a daily wager intermittently on muster roll basis from 26.11.1996 to 25.4.1998.

16. Ex. RC is the copy of the reply dated 01.1.2010 sent to Shri J.P. Upadhyaya, Advocate Id. counsel for the petitioner by the Resident Engineer, Bassi Power House Division, HPSEB, Joginder Nagar after receiving the legal notice dated 13.11.2009 the copy of which is Ex. RB.

17. Ex. RD is the copy of the reply submitted by the Resident Engineer, Bassi Power House Division, HPSEB, Joginder Nagar before the Labour Officer-cum-Conciliation Officer, Dharamshala during the conciliation proceedings.

18. It is an admitted case of the parties that initially the services of the petitioner were engaged as a daily wager on 26.11.1996. The mandays chart Ex.RA produced by the respondent is not in dispute. It reveals that the petitioner had worked as a daily wager *w.e.f.* 26.11.1996 to 25.4.1998 intermittently. Although, it was asserted by the petitioner that he was a workman of the respondent but, the respondent has specifically claimed that after 25.4.1998 the petitioner had abandoned the job as a daily wager of his own sweet will and had started working with the Board as a contractor, as per work orders awarded in his favour. Therefore, the question which arises for consideration, as per the arguments is whether after 25.4.1998 the petitioner was an employee of respondent or not. It is by now well settled that the burden of proof is on the workman to establish the employer-employee relationship. In ***Workmen of Nilgiri Coop. Maktg. Soc. Ltd. vs. State of Tamil Nadu, (2004) 3 SCC 514***, it has been laid down by the Hon'ble Supreme Court that it is a well settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him. It was also observed therein that where a person asserts that he was a workman of the company, and it is denied by the company, it is for him to prove the fact. It is not for the company to prove that he was not an employee of the company but of some other person.

19. Therefore, in view of the aforesaid binding precedent, the onus lay on the petitioner to prove the employer-employee relationship in between himself and the respondent after 25.4.1998. No document has been placed and exhibited on record by the petitioner to show that after 25.4.1998 he was an employee of the respondent. At the risk of repetition, the mandays chart Ex.RA makes it abundantly clear that the petitioner had worked intermittently as a daily wager from 26.11.1996 to 25.4.1998 only. The petitioner was also categorical in his substantive evidence that he had worked with breaks on muster roll basis from 26.11.1996 to 25.4.1998. Placed on record by the respondent are copies of work order forms as Ex.R1 to Ex.R10. The petitioner has not disputed these documents, as while under cross-examination he clearly admitted his signatures on the same. A perusal of these work order forms would reveal that the petitioner had worked as a contractor with the respondent/Board from time to time *w.e.f.* 2.6.1999 upto 30.6.2008. The payments of works done by the petitioner were also duly received by him from the respondent/Board. In view of these facts, I am at a loss to understand as to how and on what basis it lies in the mouth of the petitioner to say that the relationship of employer and employee/workman existed between the parties.

20. Our own Hon'ble High Court in case titled as *Agya Ram vs. State of H.P., 2016 (sup.)Him.L.R. 2821* has held that it is for the petitioners to prove by leading evidence to demonstrate that the respondents had the control and supervision over them while discharging the official duties. The evidence, both oral and documentary led on record by the petitioner nowhere suggested that he was able to prove employer-employee relationship between him and the respondent after 25.4.1998. It is nowhere the case of the petitioner that after the aforementioned date, his service conditions had been changed to his disadvantage by the respondent in contravention of the provisions of Section 9-A of the Act. No mandays chart after 25.4.1998 issued by the respondent in his favour has been placed on record by the petitioner to show that thereafter also he had worked as a daily wager with the respondent. Rather, as discussed above, the copies of work order forms clarify that the petitioner had worked as a contractor from time to time with the respondent/Board thereafter. In *Mahindra and Mahindra vs. The Presiding Officer and Anr., 2013 (1) LLJ 186*, it has been held by the Hon'ble Punjab and Haryana High Court that once the workman had failed to discharge the burden cast on him as he had failed to lead any evidence to show that he was paid the salary directly by the alleged employer and further that he was working directly under the control and supervision of the alleged employer, he cannot be termed to be an employee of the said employer to entitle him to raise an industrial dispute with it. Since, as per my detailed discussion above, the petitioner has failed to discharge the burden cast upon him, as he has failed to lead evidence to show that even after 25.4.1998 he had worked as a daily wager with the respondent on muster-roll basis, so he cannot be said to be an employee of the respondent after that date.

21. Since, the petitioner was not a workman, the question of the retrenchment of his services unlawfully by the respondent does not arise. No provision of the Act has been flouted by the respondent. Even otherwise, no mandays chart of the petitioner is there on the file to establish that he worked continuously for a period of 240 days in a block of twelve calendar months anterior to the dates of his alleged termination, (as per the reference) as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act, which are only claimed to have been flouted by the petitioner in his statement of claim, are not attracted in this case.

22. As already mentioned above, as per the copies of work order forms (Ex.R1 to Ex.R10), which have admittedly been signed by the petitioner, the petitioner had worked as a contractor with the respondent/Board from 2.6.1999 to 30.6.2008 from time to time. It appears to me that the avarice of the petitioner to grab the job and money has forced him to file a totally false and baseless claim. He is not entitled to any relief.

23. This issue is decided accordingly against the petitioner and in favour of the respondent.

*Issue No. 2 :*

24. Taking into account my findings on issue No.1 above, it is held that neither the petitioner has the cause of action nor the *locus standi* to sue. The claim petition is not maintainable in the present form. The same is frivolous and vexatious. The claim petition has been instituted by the petitioner with a malafide intention to derive undue advantage(s).

25. This issue is also decided against the petitioner and in favour of his opponent.

*Issue No. 3 :*

26. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

*"The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone".*

27. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue is decided in favour of the petitioner and against the respondent.

*Issue No. 4 (Relief) :*

28. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 19th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

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IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 126/2019

Date of Institution : 15.11.2019

Date of Decision : 20.03.2020

Shri Ram Chander s/o Shri Kanhu Ram, r/o Village Katawahar, P.O. Kamand, Tehsil and District Mandi, H.P. . .Petitioner.

*Versus*

The Executive Engineer, H.P.P.W.D. Division No.1, Mandi, District Mandi, H.P. . .Respondent.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the Petitioner : Sh. Vijay Kaundal, Adv.

For the Respondent : Sh. Anil Sharma, Dy. D.A.

**AWARD**

The below given reference has been received from the appropriate Government for adjudication:

“Whether termination of daily wages services of workman Shri Ram Chander s/o Shri Kanhu Ram, r/o Village Katawahar, P.O. Kamand, Tehsil & District Mandi, H.P. *w.e.f.* February, 2000 by Executive Engineer, H.P.P.W.D. Division No.1, Mandi, District Mandi, H.P., without complying with the provisions of Section 25-F, G and H and other provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what kind of past service benefits, seniority, back wages, regularization and other kinds of compensation he is entitled to under the provisions of the Industrial Disputes Act, 1947 from the employer?”

2. The case of the petitioner as set out in the statement of claim is that his services were engaged as a beldar on daily waged basis by the respondent on 01-1-1996. He continued working as such with the respondent till February, 2000. The respondent had been giving fictional breaks to the petitioner so that he could not complete 240 days of continuous service. His services were thereafter orally terminated by the respondent without following the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). The respondent had retained persons junior to him, namely, S/Shri Mohan Singh, Jagdish Chand, Ram Lal and Roop Singh and as such had violated the principle of ‘last come first go’, as envisaged under Section 25-G of the Act. Earlier, reference No.13/2008 had been decided in favour of the petitioner. It was challenged by the respondent before the Hon’ble High Court of Himachal Pradesh, when the Award passed by this Tribunal was set aside and the matter had been sent back to the appropriate Government for re-framing the reference with regard to not only under Section 25-F, but also under Section 25-G of the Act. Thereupon, the present reference was filed by the appropriate Government with regard to violation of the provisions of Section 25-F, 25-G and 25-H of the Act. It is claimed by the petitioner that the act of the respondent in terminating his services was highly unjustified, arbitrary, unconstitutional and against the mandatory provisions of the Act. He is still unemployed. He is entitled for back wages from the date of his illegal termination. Hence, the petition for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability, that the petitioner has not come to the Court with clean hands and has suppressed material facts, *locus standi* and that the petition suffers from the vice of delay and laches. The contents of the petition were denied on merits. However, it is asserted that the petitioner was engaged as a daily waged beldar in December, 1997. He had worked for 29 days. He had not worked sincerely. He had been remaining absent and used to come to the work occasionally as per his own convenience. He had worked only for 29 days in the year 1997, 59 days in the year 1998, 216 days in the year 1999 and 24 days in the year 2000. He thereafter had left the job of his own sweet will and that he had never returned back on duty. He had not completed 240 days in any calendar year, so there was no question of complying with the provisions of Sections 25-F, 25-G and 25-H of the Act. The facts of the case of Shri Ram Lal were different. No new/fresh hands had been engaged by the respondent. The services of the



petitioner had never been terminated by the respondent. The principle of 'last come first go' had strictly been adhered to by the respondent. The petitioner is not entitled to any relief. Hence, it was prayed that the petition be dismissed.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 24-2-2020:

1. Whether termination of services of the petitioner by the respondent *w.e.f.* February, 2000 without complying with the provisions of Sections 25-F, G and H of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged. If so, its effect? . . . *OPP.*
2. Whether the claim petition is not maintainable, as alleged? . . . *OPR.*
3. Whether the petitioner has not come to the Court with clean hands and has suppressed the material facts, as alleged? . . . *OPR.*
4. Whether the petitioner has no *locus standi* to file the present claim petition, as alleged? . . . *OPR.*

6. Thereafter, evidence was led by the parties to the lis in support of the issues so framed.

7. Arguments of the learned Authorized Representative/counsel for the petitioner and the learned Assistant District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	: Partly yes
Issue No. 2	: No
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per the operative part of the Award.

### REASONS FOR FINDINGS

*Issue No. 1 :*

9. The petitioner, namely, Shri Ram Chander examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim, which are Ex. PW1/B and Ex. PW1/C.

10. In the cross-examination, he admitted that he was engaged as a beldar by the department in December, 1997. He also admitted that he had only worked for 29 days in the year

1997, 59 days in the year 1998, 216 days in 1999 and 24 days in the year 2000. He denied that he had worked intermittently from December, 1997 upto January, 2000. He also denied that he had been coming to work at his own convenience. He further denied that he had been given employment as per the availability of seasonal work and funds available with the department. He specifically admitted that he had not completed 240 days in any year. He also admitted that Shri Ram Lal had been engaged by the department as per the orders of the Court. He categorically denied that the department had not violated the provisions of Section 25-F, 25-G and 25-H of the Act. He also denied that no junior to him had been retained. He admitted that he owns land. Volunteered that, he makes both the ends meet with difficulty. He denied that he himself had left the job and had not reported back on duty. He admitted that he had issued the demand notice in the year 2006. He denied that no breaks had been given by the department and that he of his own sweet will had left the job. He denied that cases of Mohan Singh, Jagdish Chand, Ram Lal, Roop Singh and Prem Singh are different to his. He also denied that no fresh hands had been kept. Further, he denied that despite being called by the department, he had not reported back on work.

10. Conversely, Shri Jitender Kumar, Executive Engineer, B&R Division No. 1, HPPWD, Mandi (respondent) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

In the cross-examination, he denied that the petitioner had been engaged on 1.1.1996. Volunteered that, he was engaged in December, 1997. He admitted that the petitioner had worked upto the year 2000. He specifically denied that he had been disengaged in February, 2000. He also denied that the petitioner had completed 240 days in the last twelve months. He clearly admitted that workman Roop Lal, whose name figures in Ex.RW1/D, was engaged in June, 1999. He also admitted that he (Roop Lal) had worked upto March, 2002. Further, he admitted that Roop Lal was junior to the petitioner. Self stated that the petitioner had left the job in the year 2000. He admitted that there is no correspondence with the petitioner from the side of the department, asking him to report back on duty, lest proceedings would be initiated against him. Volunteered that, as he was a daily wager service rules were not applicable to him, so the proceedings had not been initiated against him. He admitted that all the workers mentioned from serial Nos. 386 to 411 in Ex.RW1/H have continuously worked with the department and they have been regularized as per the policy of the Government. He also admitted that as per Ex.RW1/K Shri Roop Lal has worked from June, 1999 to the year 2006 and that he had completed 240 days in every year. Further, he admitted that Ashwani, whose name figures at serial No. 24 and encircled in red circle in Ex.RW1/M was engaged in the department on 15.2.2002. He denied that the department had intentionally disengaged the petitioner.

11. Court Notices Ex.RW1/B is the copy seniority list year wise working days relating to the petitioner.

12. Ex.RW1/C is the copy of year wise working days of regular workers *w.e.f.* 1.1.1997 under Kamand Sub Division.

13. Ex.RW1/D is the copy of detail of working days of Shri Roop Lal.

14. Ex.RW1/E is the copy of detail of working days pertaining to Shri Ram Lal.

15. Ex.RW1/F is the copy of Office Order regarding re-engagement of Shri Gandhi Ram.

16. Ex.RW1/G is the copy of year wise working days of daily wages workers, who have completed eight years continuous service.

17. Ex.RW1/H is the copy of seniority list of daily wages workers, who have completed eight years of service as on 31.3.2008.

18. Ex.RW1/J is the copy of seniority list of daily wages workers who have completed seven years continue service as on 31.3.2015.

19. Ex.RW1/K is the copy of seniority list of Shri Roop Singh.

20. Ex. RW1/L is the copy of order dated May 11, 2001 passed by the Hon'ble Administrative Tribunal in O.A. (M) No.456/2000.

21. Ex.RW1/M is the copy of the year-wise working details of the workers relating to Shri Hosiyar Singh and others.

22. Ex.RW1/NA1 and Ex.RW1/NA2 are the copies of working details of Shri Jagdish and others.

23. Ex.RW1/O is the copy of mandays chart relating to the petitioner.

24. It is the admitted case of the parties that the services of the petitioner had been engaged as a daily waged beldar. The version of the petitioner is that his services were engaged on 1.1.1996 by the respondent and that he had worked as such upto the February, 2000. The respondent took the stand that the petitioner had been engaged as a daily waged beldar in December, 1997. The petitioner while under cross-examination admitted this case of the respondent, as he in the very opening line of his cross-examination was categorical that he was engaged as a beldar by the department in December, 1997. Then, placed and proved on record by the respondent is the mandays chart pertaining to the petitioner as Ex. RW1/O. Its perusal discloses that the services of the petitioner were engaged by the respondent in the month of December, 1997 for the first time as a daily waged beldar and he had worked as such upto January, 2000. The claimant/petitioner has not placed and exhibited on record any document to show that he had been engaged by the respondent on 1.1.1996.

25. Now, I proceed to decide as to whether in the month of February, 2000 the services of the petitioner were finally terminated by the respondent or not?

26. In the reply, the respondent has specifically pleaded that after January, 2000 the petitioner willingly left the job and never reported back for duty. During the cross-examination, the petitioner (PW1) specifically denied that he had been coming to work at his own convenience from December, 1997 upto January, 2000 and that thereafter he had left the job of his own and had never reported back on duty.

27. It is common knowledge that the abandonment has to be proved by the employer like any other fact. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. It has come in the statement of the respondent (RW1) that no notice was served upon the petitioner calling upon him to join his duties. Absence from duty is a serious misconduct. There is nothing on record to show that any disciplinary action was initiated against the petitioner by the respondent because of the alleged willful absence from work of the former. The plea of abandonment put forth by the respondent/employer is not established.

28. From the mandays chart Ex. RW1/O placed on the file, it becomes clear that the petitioner had not completed 240 days of continuous work in a block of twelve calendar months preceding the month of his retrenchment, i.e. February, 2000, as envisaged under Section 25-B

of the Act. It has been laid down by the Hon'ble Supreme Court in case titled as ***Mohd. Ali vs. State of Himachal Pradesh and Ors., (2019) 1 SCC (L&S) 138*** that when the workman had not worked for the required 240 days of working in the period of twelve calendar months preceding the date of dismissal, he is not entitled to take the benefits of the provisions of Section 25-F of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

29. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondent. A detail of such persons has been given in para 2 of the statement of claim. The respondent has refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the department. Significantly, it stands admitted by the respondent (RW1) that Shri Roop Lal was junior to the petitioner. Browsing through the copy of working days of Shri Roop Lal, Ex.RW1/D, which is an admitted document on the part of the respondent, it is evident that he had been engaged by the department in June, 1999. Then, Ex.RW1/B i.e. copy of seniority list of beldar category relating to Shri Munshi Ram and others would reveal that Shri Munshi Ram was initially engaged by the respondent on 16.11.2005, whereas the services of Shri Sarwan Kumar were engaged on 24.1.2006, that of Smt. Kanta on 1.6.2006, of Shri Krishna on 1.11.2006, Shri Lal Singh on 10.10.2006, Shri Naresh Kumar on 1.5.2007, Shri Devender Kumar on 13.4.2007, Shri Dina Nath on 22.10.2007, Shri Parkash Chand on 17.7.2008 and of Shri Biri Singh on 27.7.2009. Of course, a note has been given on Ex.RW1/B that all the above named persons were appointed on compassionate grounds. However, the dates of deaths their fathers and husbands have not come on the file. Nothing is forthcoming from the testimony of Shri Jitender Kumar (RW1) that all the above named persons are no more in the job of the department. Indisputably, their services were engaged after the engagement of the services of the petitioner. There is nothing on record to show that the deceased fathers and husbands of the aforementioned persons were senior to the petitioner. This indicates that persons junior to the petitioner had been retained by the respondent, while disengaging his services. So, the respondent had failed to adhere to the principle of 'last come first go'. Retaining juniors at the cost of senior is nothing but unfair labour practice. Since, the provisions of Sections 25-G of the Act have been contravened, it was not obligatory for the petitioner to have completed 240 days in a block of twelve calendar months preceding termination to derive benefit under this Section of the Act. For taking this view, I am guided by the judgment rendered by our own Hon'ble High Court in case titled as ***State of Himachal Pradesh & Anr. Vs. Shri Partap Singh, 2017 (1) Him L.R. 286***.

30. It was also claimed by the petitioner that new appointments had been made by the respondent. Except for his self serving and oral testimony, there is no other oral or documentary, cogent, convincing and reliable evidence on the file to show that the employer had offered any fresh appointment to any person to fill any vacancy in their set up. It was vociferously argued for the petitioner that Shri Jitender Kumar (RW1) has categorically admitted in his cross-examination that Ashwani whose name figures at serial No. 24 of the list Ex.RW1/M was engaged by the department on 15.2.2002 which shows that new/fresh hands had been engaged. This cannot be accepted. Browsing through Ex.RW1/M would reveal that this year-wise working days of beldar category does not belong to the respondent but to Executive Engineer, Mandi Division No.II, HPPWD, Mandi. That being so, the provisions of Section 25-H of the Act are not attracted in this case.

31. It was for the petitioner to prove that during the period he was out of the job, he was unemployed. To my mind, a man like the petitioner will not sit idle. Then, he while under cross-examination was specific that he owns land and had volunteered to state that he makes both his ends meet with difficulty. He has failed to discharge the initial onus that during the period he was not in service, he was not gainfully employed.

32. This issue is decided in favour of the petitioner and against the respondent.

*Issues No. 2 and 4 :*

33. Taking into account my findings on issue no. 1 above, it is held that the petitioner has the cause of action as well as the locus standi to sue. The claim petition is maintainable in the present form. These issues are decided against the respondent and in favour of the petitioner.

*Issue No. 3 :*

34. Not pressed.

*Relief :*

35. In the light of what has been discussed hereinabove, the present reference/claim petition succeeds in part and the same is allowed partly. The retrenchment of the petitioner is set aside and quashed. The respondent is hereby directed to re-engage the petitioner forthwith. He shall be entitled to seniority and continuity in service from the month of his illegal termination *i.e.* February, 2000, *except back wages*. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 20th day of March, 2020.

Sd/-  
(YOGESH JASWAL),  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.*

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**In the Court of Dr. Charanji Lal, HPAS, Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur, District Hamirpur (H.P.)**

In the matter of :

1. Sh. Sushil Kumar s/o Sh. Pritam Chand, r/o Near SSB, Pakka Bharo, Village Saster, P.O Daruhi, Tehsil & District Hamirpur (H.P.)

2. Smt. Kaushalya Devi d/o Sh. Jalam Ram, r/o Village Sarad, P.O. Bihani, Tehsil Thunag, District Mandi (H.P.)  
.. *Applicants.*

*Versus*

General Public

*Subject.*— Notice for Registration of Marriage.

Sh. Sushil Kumar & Smt. Kaushalya Devi have filed an application u/s 15 of Special Marriage Act, 1954 alongwith affidavits and supporting documents in the court of undersigned

stating therein that they have solemnized their marriage on 20-02-2021 as per Hindu ritual and customs.

Therefore, the general public is hereby informed through this notice that if any person having any objection regarding this marriage, may file his/her objections personally or in writing before this court on or before 26-03-2021. In case no objection is received by 26-03-2021, it will be presumed that there is no objection to the registration of the above said marriage and the same will be registered accordingly.

Issued under my hand and seal of the court on 25-02-2021.

Seal.

Sd/-  
Marriage Officer-cum-SDM,  
Hamirpur, District Hamirpur (H.P.).

**In the Court of Dr. Charanji Lal, HPAS, Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur, District Hamirpur (H.P.)**

In the matter of :

1. Sh. Manoj Kumar s/o Sh. Ram Pal, r/o Village Nukhel, P.O. Galore, Tehsil Naduan, District Hamirpur (H.P.) at present c/o Sh. Kamal Dev s/o Late Sh. Krishan Chand, r/o Village Bhater, P.O. Mohin, Tehsil & District Hamirpur (H.P.).

2. Smt. Chetanya Devi d/o Sh. Atma Ram, r/o Village Lahasni, P.O. Chour, Tehsil & District Kullu (H.P.) . . Applicants.

*Versus*

General Public

*Subject.*— Notice for Registration of Marriage.

Sh. Manoj Kumar & Smt. Chetanya Devi have filed an application u/s 15 of Special Marriage Act, 1954 alongwith affidavits and supporting documents in the court of undersigned stating therein that they have solemnized their marriage on 27-02-2020 as per Hindu ritual and customs.

Therefore, the general public is hereby informed through this notice that if any person having any objection regarding this marriage, may file his/her objections personally or in writing before this court on or before 30-03-2021. In case no objection is received by 30-03-2021, it will be presumed that there is no objection to the registration of the above said marriage and the same will be registered accordingly.

Issued under my hand and seal of the court on 18-02-2021.

Seal.

Sd/-  
Marriage Officer-cum-SDM,  
Hamirpur, District Hamirpur (H.P.).

**In the Court of Dr. Charanji Lal, HPAS, Marriage Officer-cum-Sub Divisional Magistrate,  
Hamirpur, District Hamirpur (H.P.)**

In the matter of :

1. Sh. Vikas Sharma s/o Sh. Tilak Raj Sharma, r/o Village Dabsai, P.O. Bhira, Tehsil & District Hamirpur (H.P.).

2. Smt. Niru Chetry d/o Sh. Liladhar Chetry, r/o Latakata, Ganesh Nagar Road, Swaragpur, Basistha Kamrup Metro, Assam-781029. . . *Applicants.*

*Versus*

General Public

*Subject.*— Notice for Registration of Marriage.

Sh. Vikas Sharma & Smt. Niru Chetry have filed an application u/s 15 of Special Marriage Act, 1954 alongwith affidavits and supporting documents in the court of undersigned stating therein that they have solemnized their marriage on 20-02-2021 as per Hindu ritual and customs.

Therefore, the general public is hereby informed through this notice that if any person having any objection regarding this marriage, may file his/her objections personally or in writing before this court on or before 09-04-2021. In case no objection is received by 09-04-2021, it will be presumed that there is no objection to the registration of the above said marriage and the same will be registered accordingly.

Issued under my hand and seal of the court on 01-03-2021.

Seal.

Sd/-  
Marriage Officer-cum-SDM,  
Hamirpur, District Hamirpur (H.P.).

**ब अदालत उप-मण्डल बड़सर, जिला हमीरपुर, हिमाचल प्रदेश**

श्री रमेश चन्द पुत्र श्री राम दित्ता, वासी गांव बाहल, डाकघर झिरालड़ी, तहसील बड़सर, जिला हमीरपुर, हिमाचल प्रदेश . . . प्रार्थी।

बनाम

आम जनता

. . . प्रतिवादी।

विषय.—नोटिस के माध्यम से प्रकाशन बारे।

प्रार्थना—पत्र श्री रमेश चन्द ने हाजिर अदालत दायर किया है। प्रार्थी का आवेदन है कि उनकी पत्नी श्रीमती सरोज कुमारी दिनांक 11-10-2013 से घर से गायब है, जिसका आज तक कोई पता न चला है, इसलिए श्री रमेश चन्द ने ग्राम पंचायत, करेर से अपनी पत्नी श्रीमती सरोज कुमारी का नाम कटवाने हेतु हाजिर अदालत दायर किया है।

अतः आम जनता व इलाकावासियों को इस अदालत द्वारा जारी नोटिस/इशतहार के माध्यम से सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त श्रीमती सरोज कुमारी का नाम काटने बारे आपत्ति हो तो वह अपना एतराज असालतन या वकालतन हाजिर अदालत आकर दिनांक 05-04-2021 से पूर्व पेश कर सकता है। इसके उपरान्त कोई एतराज मान्य नहीं होगा। किसी की भी आपत्ति प्राप्त न होने की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी तथा प्रार्थी की पत्नी श्रीमती सरोज कुमारी दर्ज का नाम काटने बारे सम्बन्धित ग्राम पंचायत को आदेश दे दिया जाएगा।

नोटिस आज दिनांक 05-03-2021 को मेरे हस्ताक्षर एवं कार्यालय मोहर अदालत द्वारा पारित हुआ।

मोहर।

हस्ताक्षरित/—  
उप-मण्डल अधिकारी बड़सर,  
जिला हमीरपुर (हि० प्र०)।

**ब अदालत विवाह पंजीकरण अधिकारी, बड़सर, उप-मण्डल बड़सर, जिला हमीरपुर  
(हि० प्र०)**

1. Mr. Aman age 21 years s/o Sh. Tarsem Lal, r/o Village & P.O. Chakmoh, Tehsil Dhatwal at Bijhari, District Hamirpur (H.P.).

2. Ms. Manisha Kumari age 18 years d/o Sh. Vijay Kumar, r/o Village Muthan Bhiyalan, P.O. Kuthera, Tehsil & District Hamirpur (H.P.) प्रार्थी।

बनाम

आम जनता

प्रतिवादी।

आम जनता को सूचित किया जाता है कि प्रार्थी एक व दो ने इस न्यायालय में विवाह पंजीकरण करवाने का आवेदन किया है। अतः इस इशतहार द्वारा आम जनता व (अमन सुपुत्र श्री तरसेम लाल व मनीषा कुमारी पुत्री श्री विजय कुमार) के माता-पिता को इस विवाह के पंजीकरण बारे एतराज हो तो दिनांक 04-06-2021 या इससे पूर्व प्रातः 10.00 बजे तक इस न्यायालय में आपत्ति दर्ज करवा सकते हैं। इस तिथि के बाद कोई उजर स्वीकार नहीं किया जावेगा।

आज दिनांक 04-03-2021 को मेरे हस्ताक्षर एवं मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—  
विवाह पंजीकरण अधिकारी,  
बड़सर, उप-मण्डल बड़सर, जिला हमीरपुर, हि० प्र०।

**ब अदालत विवाह पंजीकरण अधिकारी, बड़सर, उप-मण्डल बड़सर, जिला हमीरपुर  
(हि० प्र०)**

1. Mr. Manish Kumar age 31 years s/o Sh. Suresh Kumar, r/o Village & P.O. Kanoh, Tehsil Barsar, District Hamirpur (H.P.).



2. Ms. Anika Sharma age 32 years d/o Sh. Kamaljit, r/o House No. 3380/14 Surian Mohalla, Kartarpur, District Jalandhar, P.B. प्रार्थी।

बनाम

आम जनता

प्रतिवादी।

आम जनता को सूचित किया जाता है कि प्रार्थी एक व दो ने इस न्यायालय में विवाह पंजीकरण करवाने का आवेदन किया है। अतः इस इशतहार द्वारा आम जनता व (मनीष कुमार सुपुत्र श्री सुरेश कुमार व अनीका शर्मा पुत्री श्री कमलजीत) के माता-पिता को इस विवाह के पंजीकरण बारे एतराज हो तो दिनांक 05-04-2021 या इससे पूर्व प्रातः 10.00 बजे तक इस न्यायालय में आपत्ति दर्ज करवा सकते हैं। इस तिथि के बाद कोई उजर स्वीकार नहीं किया जावेगा।

आज दिनांक 04-03-2021 को मेरे हस्ताक्षर एवं मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—  
विवाह पंजीकरण अधिकारी,  
बड़सर, उप-मण्डल बड़सर, जिला हमीरपुर, हि0 प्र0।

**In the Court of Shilpi Beakta, H.A.S., Marriage Officer-cum-Sub-Divisional Magistrate,  
Sujanpur, Distt. Hamirpur (H. P.)**

In the matter of :

1. Ashwani Kumar aged 21 years s/o Kuldeep Kumar, r/o Village Jihar, P.O. Patlander, Tehsil Sujanpur, District Hamirpur (H.P.).

2. Mansi aged 23 years d/o Dalip Kumar, Village Mohalla Shish Mahil, P.O. & Tehsil Melektola, ® District Sangrur, Punjab-148023.

*Versus*

General Public

*Application for the registration of marriage under section 16 of Special Marriage Act, 1954 (Central Act) as amended by Marriage Laws (Amendment Act 01, 49 of 2001).*

Ashwani Kumar aged 21 years s/o Kuldeep Kumar, r/o Village Jihar, P.O. Patlander, Tehsil Sujanpur, District Hamirpur (H.P.) and Mansi aged 23 years d/o Dalip Kumar, Village Mohalla Shish Mahil, P.O. & Tehsil Melektola ® ~~Type equation here~~ District Sangrur, Punjab have filed an application alongwith affidavits/declaration in this court under section 16 of Special Marriage Act, 1954 (Central Act) as amended by the Marriage Laws (Amendment Act 01, 49 of 2001) that they have solemnized their marriage ceremony on 21-07-2020 at Trishakti Mandir, Village Dheena Kinu Colony near Jalandhar Cant Punjab as per Hindu Rites and Customs and they are living

together as husband and wife since then. Hence their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before 26-03-2021. After that no objections will be entertained and marriage will be registered accordingly.

Issued today on 26-02-2021 under my hand and seal of the court.

Seal.

SHILPI BEAKTA, H.A.S.,  
Marriage Officer-cum-Sub-Divisional Magistrate,  
Sujanpur, Distt. Hamirpur (H.P.).

ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)

ब मुकद्दमा :

श्रीमती नसीबू पत्नी स्व0 श्री सहज दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा, (हि0 प्र0)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्रीमती नसीबू पत्नी स्व0 श्री सहज दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा, (हि0 प्र0) ने इस अदालत में दरखास्त दी है कि उसकी पुत्री सोनू बीबी का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 04-06-1987 तथा उसका जन्म गांव बडा में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वाञ्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)**

ब मुकदमा :

श्री भगवान दास पुत्र रसीला राम, निवासी गांव नगल, डाकघर बीहण, तहसील देहरा, जिला कांगड़ा, (हि0 प्र0)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्री भगवान दास पुत्र रसीला राम, निवासी गांव नगल, डाकघर बीहण, तहसील देहरा, जिला कांगड़ा, (हि0 प्र0) ने इस अदालत में दरखास्त दी है कि उसकी पुत्री अनुराधा पुत्री भगवान दास, निवासी गांव नगल, डाकघर बीहण, तहसील देहरा का जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 01-03-1975 है तथा उसका जन्म गांव नगल में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

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**ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)**

ब मुकदमा :

श्री करनैल सिंह पुत्र घुघर राम, निवासी गांव भगीण, डाकघर चुधरेड, तहसील देहरा, जिला कांगड़ा, (हि0 प्र0)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्री करनैल सिंह पुत्र घुघर राम, निवासी गांव भगीण, डाकघर चुधरेड, तहसील देहरा, जिला कांगड़ा, (हि० प्र०) ने इस अदालत में दरखास्त दी है कि उसके पुत्र अकुश कुमार का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 01-01-1991 तथा उसका जन्म गांव भगीण में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 30-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 19-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि० प्र०)।

ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि० प्र०)

ब मुकद्दमा :

श्री नसीब दीन पुत्र मौज दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि० प्र०)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्री नसीब दीन पुत्र मौज दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि० प्र०) ने इस अदालत में दरखास्त दी है कि उसकी पुत्री नजमा बेगम का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 11-03-2001 है तथा उसका जन्म गांव बडा में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि० प्र०)।

**ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)**

ब मुकद्दमा :

श्री मौज दीन पुत्र साहब दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्री मौज दीन पुत्र साहब दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में दरखास्त दी है कि उसके पुत्र श्री नसीब दीन पुत्र श्री मौज दीन का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 15-05-1978 है तथा उसका जन्म गांव बडा में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

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**ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)**

ब मुकद्दमा :

श्रीमती तृप्ता कालिया पत्नी रामा नन्द कालिया, वासी गांव छतरोह, डाकघर चिन्तपूर्णी, तहसील अम्ब, जिला ऊना (हि0 प्र0)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्रीमती तृप्ता कालिया पत्नी रामा नन्द कालिया, वासी गांव छतरोह, डाकघर चिन्तपूर्णी, तहसील अम्ब, जिला ऊना (हि0 प्र0) ने इस अदालत में दरखास्त दी है कि उसके भतीजे श्री सन्नी शर्मा पुत्र श्री तीर्थ राम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 31-03-1985 है तथा उसका जन्म गांव समनोली में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)

ब मुकद्दमा :

श्री नसीब दीन पुत्र मौज दीन, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्री नसीब दीन पुत्र मौज दीन निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में दरखास्त दी है कि उसके पुत्र रोज दीन का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 05-10-2002 तथा उसका जन्म गांव बडा में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि० प्र०)।

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**ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि० प्र०)**

ब मुकदमा :

श्री फरीद मुहम्मद पुत्र साहब सिंह, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि० प्र०)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

श्री फरीद मुहम्मद पुत्र साहब सिंह, निवासी गांव व डाकघर बडा, तहसील देहरा, जिला कांगड़ा (हि० प्र०) ने इस अदालत में दरखास्त दी है कि उसकी पुत्री रसीना बीबी का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 03-04-1985 है तथा उसका जन्म गांव बडा में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि० प्र०)।

**ब अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)**

ब मुकदमा :

अंजना कुमारी पुत्री दलीप सिंह, निवासी गांव व डाकघर मूहल, तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

बनाम

समस्त आम जनता

दरखास्त जेर धारा 13(3) जन्म तिथि एवं मृत्यु अधिनियम, 1966.

नोटिस बनाम आम जनता।

अंजना कुमारी पुत्री दलीप सिंह, निवासी गांव व डाकघर मूहल, तहसील देहरा, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में दरखास्त दी है कि उसका नाम जन्म पंचायत रजिस्टर में गलती से दर्ज नहीं करवाया गया है अब दर्ज किया जाए। उसकी जन्म तिथि 15-06-1986 है तथा उसका जन्म गांव मूहल में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करने बारे में आपत्ति या उजर हो तो वह दिनांक 24-03-2021 समय 10.00 बजे प्रातः स्वयं अथवा किसी वान्छित के माध्यम से हमारे समक्ष अदालत में हाजिर होकर पेश करें। अन्यथा एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी, देहरा,  
तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

**ब अदालत श्री विकास जमवाल, हि0प्र0से0, विवाह पंजीकरण अधिकारी, धीरा, उप-मण्डल धीरा,  
जिला कांगड़ा (हि0 प्र0)**

1. पंकज शर्मा आयु 38 वर्ष पुत्र जगदीश चन्द, निवासी गांव धार ब्रहमपुर, डाकघर आलमपुर, तहसील जयसिंहपुर, जिला कांगड़ा (हि0 प्र0)।

2. प्रियंका शर्मा आयु 33 वर्ष पुत्री मदन पाल, निवासी गांव मलेहड, डाकघर मरुंह, तहसील धीरा, जिला कांगड़ा (हि0 प्र0) प्रार्थीगण।

बनाम

आम जनता

प्रतिवादी।

आम जनता को सूचित किया जाता है कि प्रार्थीगण एक व दो ने इस न्यायालय में विवाह पंजीकरण करवाने का आवेदन किया है। अतः इस इशतहार द्वारा आम जनता व उपरोक्त आवेदनकर्ता के माता-पिता को



इस विवाह के पंजीकरण बारे एतराज हो तो दिनांक 05-04-2021 या इससे पूर्व प्रातः 10 बजे तक इस न्यायालय में आपत्ति दर्ज करवा सकते हैं। इस तिथि के बाद कोई उजर स्वीकार नहीं किया जायेगा।

आज दिनांक 25-02-2021 को मेरे हस्ताक्षर एवं मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—  
विवाह पंजीकरण अधिकारी,  
धीरा, उप-मण्डल धीरा, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री सुमन धीमान, सहायक समाहर्ता प्रथम श्रेणी, तहसील खुण्डियां,  
जिला कांगड़ा (हि0 प्र0)

केस नं० : 04/T/2021/Misc.

तारीख पेशी : 26-03-2021

श्री शुभम राणा पुत्र श्री सरवण सिंह, निवासी गांव जोल, डाकघर सुदर लाहड, तहसील खुण्डियां,  
जिला कांगड़ा (हि0 प्र0)।

बनाम

आम जनता

उनवान मुकद्दमा.—नाम दुरुस्ती।

प्रार्थी श्री शुभम राणा पुत्र श्री सरवण सिंह, निवासी गांव जोल, डाकघर सुदर लाहड, तहसील खुण्डियां, जिला कांगड़ा (हि0 प्र0) ने स्वयं उपस्थित होकर प्रार्थना-पत्र प्रस्तुत किया कि मेरा नाम महाल जोल, डाकघर सुदर लाहड, तहसील खुण्डियां, जिला कांगड़ा (हि0 प्र0) के राजस्व अभिलेख पटवार वृत्त बरोग लाहड के महाल जोल में साहिल पुत्र सरवण कुमार दर्ज है, जबकि ग्राम पंचायत बरोग लाहड के अभिलेख व स्कूल प्रमाण-पत्र में मेरा नाम शुभम राणा पुत्र सरवण सिंह दर्ज है। अतः राजस्व अभिलेख महाल पटवार वृत्त बरोग लाहड के महाल जोल में मेरा नाम साहिल पुत्र सरवण कुमार उपनाम शुभम राणा पुत्र सरवण सिंह दर्ज किया जाये। वास्तव में भिन्न-भिन्न दो नामों का मैं एक ही व्यक्ति हूं।

अतः सर्वसाधारण को सुनवाई हेतु बजरिया इश्तहार व मुस्त्री मुनादी द्वारा सूचित किया जाता है कि इस सम्बन्ध में किसी प्रकार का उजर/एतराज हो तो वह दिनांक 26-03-2021 को असालतन व वकालतन पेश होकर अपना एतराज दर्ज करवा सकता है। उसके उपरान्त कोई भी उजर/एतराज जेर समायत न होगा तथा शुभम राणा पुत्र श्री सरवण सिंह, निवासी गांव जोल, डाकघर सुदर लाहड, तहसील खुण्डियां, जिला कांगड़ा (हि0 प्र0) का नाम राजस्व अभिलेख पटवार वृत्त बरोग लाहड में साहिल पुत्र सरवण कुमार के बजाये साहिल पुत्र सरवण कुमार उपनाम शुभम राणा पुत्र सरवण सिंह दर्ज करने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 03-03-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—  
सहायक समाहर्ता प्रथम श्रेणी,  
तहसील खुण्डियां, जिला कांगड़ा (हि0 प्र0)।

**ब अदालत सुनील चौहान, तहसीलदार एवम् सहायक समाहर्ता प्रथम श्रेणी, थुरल,  
जिला कांगड़ा (हि0 प्र0)**

किस्म मुकद्दमा.—दुरुस्ती नाम

तारीख पेशी : 07-04-2021

श्रीमती सोनी शर्मा पुत्री श्री जुल्फी, निवासी गांव कोतवाल लाहड, तहसील थुरल, जिला कांगड़ा (हि0 प्र0) प्रार्थिया।

बनाम

आम जनता

प्रतिवादी।

विषय.—प्रार्थना-पत्र दुरुस्ती नाम राजस्व अभिलेख महाल कोतवाल लाहड मौजा व तहसील थुरल, जिला कांगड़ा (हि0 प्र0)।

प्रार्थिया श्रीमती सोनी शर्मा पुत्री श्री जुल्फी, निवासी गांव कोतवाल लाहड, तहसील थुरल, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना-पत्र मय शपथ-पत्र पीठासीन अधिकारी के समक्ष प्रस्तुत करते हुए अनुरोध किया है कि उसका नाम पंचायत अभिलेख व अन्य दस्तावेज में सोनी शर्मा दर्ज है व उसका विख्यात व सही नाम भी सोनी शर्मा ही है परन्तु राजस्व अभिलेख महाल कोतवाल लाहड, मौजा व तहसील थुरल में उसका नाम रीता देवी गलत दर्ज हो गया है। अतः प्रार्थिया अब अपना नाम राजस्व अभिलेख महाल कोतवाल लाहड मौजा व तहसील थुरल में दुरुस्ती करवा करके श्रीमती रीता देवी के बजाए रीता देवी उपनाम सोनी शर्मा पुत्री श्री जुल्फी दर्ज करवाना चाहती है। अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस मुस्त्री मुनादी चस्पांगी व इश्तहार अखबारी के माध्यम से आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थिया के नाम की राजस्व अभिलेख महाल कोतवाल लाहड, मौजा व तहसील थुरल में श्रीमती रीता देवी के बजाए रीता देवी उपनाम सोनी शर्मा पुत्री श्री जुल्फी दर्ज करवाने बारे किसी किस्म की आपत्ति या उजर हो तो वह तारीख पेशी 07-04-2021 को असालतन या वकालतन हाजिर अदालत होकर अपना उजर पेश कर सकता है अन्यथा बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व नाम दुरुस्ती का आदेश पारित कर दिया जाएगा।

यह इश्तहार आज दिनांक 25-02-2021 को मोहर अदालत व मेरे हस्ताक्षर से जारी हुआ।

मोहर।

हस्ताक्षरित/—

सहायक समाहर्ता प्रथम श्रेणी थुरल,  
तहसील थुरल, जिला कांगड़ा (हि0 प्र0)।

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**ब अदालत श्री सुनील कुमार, कार्यकारी दण्डाधिकारी, थुरल, जिला कांगड़ा (हि0 प्र0)**

मुकद्दमा नं0 : /2020

तारीख पेशी : 07-04-2021

किस्म प्रकरण : जन्म पंजीकरण

श्रीमती पुष्पा देवी पत्नी श्री मिलाप चन्द, निवासी गांव वोरकड, डाकघर मूण्डी, तहसील थुरल, ग्राम पंचायत मूण्डी, जिला कांगड़ा (हि0 प्र0) प्रार्थिया।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना-पत्र।

श्रीमती पुष्पा देवी पत्नी श्री मिलाप चन्द, निवासी गांव वोरकड, डाकघर मूण्डी, तहसील थुरल, ग्राम पंचायत मूण्डी, जिला कांगड़ा (हि० प्र०) ने इस अदालत में प्रार्थना-पत्र मय ब्यान हल्फी पेश करते हुए आवेदन किया है कि उसकी बेटी अनुराधा का जन्म दिनांक 01-08-1978 को गांव वोरकड, डाकघर मूण्डी, तहसील थुरल, ग्राम पंचायत मूण्डी, जिला कांगड़ा (हि० प्र०) में हुआ है परन्तु अज्ञानतावश उसके जन्म का पंजीकरण स्थानीय ग्राम पंचायत अभिलेख में न करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपनी बेटी के जन्म का पंजीकरण करने का आदेश ग्राम पंचायत मूण्डी को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इशतहार राजपत्र द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त की जन्म तिथि 01-08-1978 के पंजीकरण बारे कोई उजर एवं एतराज हो तो वह असालतन या वकालतन तारीख पेशी 07-04-2020 को हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है। बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त श्रीमती अनुराधा की जन्म तिथि को पंजीकृत करने का आदेश उप-स्थानीय पंजीकार, जन्म व मृत्यु, ग्राम पंचायत मुण्डी को पारित कर दिया जाएगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 03-03-2021 को जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी  
थुरल, जिला कांगड़ा, हि० प्र०।

### ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर, जिला कांगड़ा (हि० प्र०)

स्वर्ण सिंह पुत्र श्री धर्म सिंह राम, निवासी महाल व मौजा पंजाहडा, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०) प्रतिवादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना-पत्र नाम दुरुस्ती खाता नं० 66, महाल व मौजा पंजाहडा ढालां, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०)।

प्रार्थी स्वर्ण सिंह पुत्र श्री धर्म सिंह राम, निवासी महाल व मौजा पंजाहडा, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०) ने एक प्रार्थना-पत्र गुजारा है जिसमें निवेदन किया है कि उसका नाम आधार कार्ड, परिवार व अन्य दस्तावेज में स्वर्ण सिंह पुत्र श्री धर्म सिंह लिखा है, जोकि सही है, परन्तु भू-राजस्व अभिलेख महाल व मौजा पंजाहडा ढालां के खाता नं० 66 में उसका नाम सरवन सिंह पुत्र श्री धर्म सिंह लिखा गया है जो कि गलत है। सरवन सिंह पुत्र श्री धर्म सिंह व रणधीर सिंह पुत्र श्री केहर सिंह व स्वर्ण सिंह पुत्र श्री धर्म सिंह एक ही व्यक्ति का नाम है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के नाम की दुरुस्ती होने पर कोई आपत्ति हो तो वह 20 दिन के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को नाम दुरुस्ती पर आपत्ति नहीं है। अतः नियमानुसार नाम दुरुस्ती के आदेश जारी कर दिए जाएंगे।

आज दिनांक 03-03-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर,  
जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर, जिला कांगड़ा (हि0 प्र0)

रणवीर सिंह पुत्र श्री केहर सिंह राम, निवासी महाल सम्मा, मौजा पुन्दर, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना-पत्र नाम दुरुस्ती खाता नं0 11, महाल सम्मा मौजा पुन्दर, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0)।

प्रार्थी रणवीर सिंह पुत्र श्री केहर सिंह राम, निवासी महाल सम्मा, मौजा पुन्दर, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना-पत्र गुजारा है। जिसमें निवेदन किया है कि उसका नाम आधार कार्ड, परिवार व अन्य दस्तावेज में रणधीर सिंह पुत्र श्री केहर सिंह लिखा है जोकि सही है परन्तु भू-राजस्व अभिलेख महाल सम्मा मौजा पुन्दर के खाता नं0 11 में उसका नाम रणवीर सिंह पुत्र श्री केहर सिंह लिखा गया है, जो कि गलत है। रणवीर सिंह पुत्र श्री केहर सिंह व रणधीर सिंह पुत्र श्री केहर सिंह एक ही व्यक्ति का नाम है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि अगर किसी व्यक्ति को उक्त प्रार्थी के नाम की दुरुस्ती होने पर कोई आपत्ति हो तो वह 20 दिन के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को नाम दुरुस्ती पर आपत्ति नहीं है। अतः नियमानुसार नाम दुरुस्ती के आदेश जारी कर दिए जाएंगे।

आज दिनांक 03-03-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर,  
जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर, जिला कांगड़ा (हि0 प्र0)

रणवीर सिंह पुत्र श्री केहर सिंह राम, निवासी महाल सम्मा, मौजा पुन्दर, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र नाम दुरुस्ती शजरा नस्व महाल सम्मा मौजा पुन्दर, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0)

प्रार्थी रणवीर सिंह पुत्र श्री केहर सिंह, निवासी महाल सम्मा, मौजा पुन्दर, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है। जिसमें निवेदन किया है कि उसकी जाति राजस्व रिकार्ड जमाबन्दी वर्ष 1976-77 में राजपूत सोई दर्ज कागजात माल है। जोकि सही है। जबकि राजस्व रिकार्ड मिसल हकीयत बन्दोबस्त व हाल जमाबन्दी में उसकी जाति सोई व उप—जाति टाहडिए दर्ज कागजात माल है। जोकि गलत है व उसकी जाति दुरुस्त की जाए।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि अगर किसी व्यक्ति को उक्त प्रार्थी की जाति की दुरुस्ती होने पर कोई आपत्ति हो तो वह 20 दिन के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को नाम दुरुस्ती पर आपत्ति नहीं है। अतः नियमानुसार नाम दुरुस्ती के आदेश जारी कर दिए जाएंगे।

आज दिनांक 03-03-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर,  
जिला कांगड़ा (हि0 प्र0)।

**ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर, जिला कांगड़ा (हि0 प्र0)**

नरिन्द्र सिंह पुत्र श्री मगर सिंह, निवासी महाल बदूही, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र मृत्यु पंजीकरण ग्राम पंचायत बदूही, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0)

प्रार्थी नरिन्द्र सिंह पुत्र श्री मगर सिंह, निवासी महाल बदूही, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है। जिसमें निवेदन किया है कि उसकी माता श्रीमती रत्नी देवी जिनकी मृत्यु दिनांक 07-07-2016 को हुई है का मृत्यु पंजीकरण अज्ञानतावश ग्राम पंचायत बदूही, तहसील नूरपुर में दर्ज नहीं हो पाई है। जिसके समर्थन में मुख्य चिकित्सा अधिकारी कांगड़ा स्थित धर्मशाला की रिपोर्ट प्रार्थना—पत्र के साथ संलग्न है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि अगर किसी व्यक्ति को उक्त प्रार्थी की माता का ग्राम पंचायत बदूही में मृत्यु पंजीकरण होने बारे कोई आपत्ति हो तो वह 20 दिन के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को उपरोक्त प्रार्थी की माता के मृत्यु पंजीकरण पर आपत्ति नहीं है। अतः नियमानुसार मृत्यु पंजीकरण के आदेश जारी कर दिए जाएंगे।

आज दिनांक 02-03-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी नूरपुर,  
जिला कांगड़ा (हि0 प्र0)।

**In the Court of Executive Magistrate, Anni, District Kullu (H.P.)**

Khay Ram

. . Applicant.

*Versus*

General Public

. . Respondent.

**Subject.**—Notice under section 37 of Land Revenue Act, 1954 Correction of name in Revenue Record.

Sh. Khay Ram s/o Sukh Dass, resident of Village Banigad, P.O. Kamand, Tehsil Anni, District Kullu, H.P. has moved an application for correction of his name in revenue record in the office of the undersigned accompanying with an affidavit stating therein is owner of the land in Khani and Kohila Phati of Tehsil Anni, District Kullu. In the application, the applicant has prayed that the entry in revenue record with respect to name is not correct *i.e.* Dile Ram s/o Sh. Sukh Dyal. The applicant has attached Copy of Adhar Card, Parivar Register alongwith an affidavit wherein the name of the applicant's Name has been shown as Khay Ram s/o Sukh Dass.

Hence, the general public is hereby made aware through this notice that if any person or relatives have any objection regarding corection of name in revenue record of said applicant Sh. Khay Ram instead of Dile Ram, then he may may file his objection before the undersigned before 25-03-2021 on any working day failing which the *ex-parte* order with regards to correction of name will be passed.

Given under my seal and signature on this 24th day of February, 2021.

Seal.

Sd/-  
Executive Magistrate,  
Anni, District Kullu (H.P.).

**ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0)**

मिसल नं0 : 03

दिनांक मजरूआ : 24-02-2021

पेशी दिनांक : 24-03-2021

मुकद्दमा इन्द्राज : सेहत नामा

ईशान सैन पुत्र श्री सुनील कुमार, निवासी गांव हाड़ी द्राहल, डाकघर द्राहल, उप-तहसील मकरीड़ी,  
जिला मण्डी (हि0 प्र0) प्रार्थी।

आम जनता

... फरीकदोयम।

प्रार्थना—पत्र U/S 35 ता 37 हि० प्र० भू—राजस्व अधिनियम, 1954 के अन्तर्गत बाबत नाम दुरुस्ती बारे।

ईशान सैन पुत्र श्री सुनील कुमार, निवासी गांव हाड़ी द्राहल, डाकघर द्राहल, उप—तहसील मकरीड़ी, जिला मण्डी (हि० प्र०) ने शपथ—पत्र सहित आवेदन किया है कि प्रार्थी के पिता का वास्तविक नाम सुनील कुमार पुत्र कौल सिंह उपनाम कंवर सिंह है जोकि उसके ग्राम पंचायत द्राहल के रिकार्ड, आधार कार्ड, स्कूल प्रमाण—पत्र और पैन कार्ड में भी यही दर्ज है, परन्तु प्रार्थी के पिता का नाम राजस्व अभिलेख महाल हाड़ी द्राहल/273 में सुनील सैन पुत्र कौल सिंह उपनाम कंवर सिंह दर्ज हो चुका है जोकि गलत दर्ज कागजात माल है। अब प्रार्थी ने अपने पिता के नाम सुनील सैन के स्थान पर सुनील कुमार करने के आदेश चाहे हैं।

अतः इश्तहार के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को राजस्व अभिलेख महाल हाड़ी द्राहल/273 में सुनील सैन के स्थान पर सुनील कुमार दुरुस्ती करने बारे कोई उजर/एतराज हो तो वह असालतन/वकालतन तारीख पेशी दिनांक 24-03-2021 को प्रातः 10.00 बजे इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकते हैं। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिये जाएंगे।

यह इश्तहार आज दिनांक 24-02-2021 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता द्वितीय श्रेणी,  
उप—तहसील मकरीड़ी, जिला मण्डी (हि० प्र०)।

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sundernagar,  
District Mandi (H. P.)**

In the matter of :

1. Sh. Inderjeet s/o Sh. Lekh Ram, r/o Village Sunali, P.O. Khurahah, Tehsil Sundernagar, District Mandi (H.P.).

2. Sapna d/o Murari Lal, r/o Village Barethi, P.O. Dharasu, Tehsil Chanyali, District Uttarkashi (Uttarakhand) U.K. presently w/o Sh. Inderjeet s/o Sh. Lekh Ram, r/o Village Sunali, P.O. Khurahah, Tehsil Sundernagar, District Mandi (H.P.).

... Applicants.

*Versus*

General Public

... Respondent.

**Subject.**—Application for the registration of marriage under section 15 of Special Marriage Act, 1955.

Sh. Inderjeet s/o Sh. Lekh Ram, r/o Village Sunali, P.O. Khurahah, Tehsil Sundernagar, District Mandi (H.P.) and Sapna d/o Murari Lal, r/o Village Barethi, P.O. Dharasu, Tehsil

Chanyali, District Uttarkashi (Uttarakhand) U.K. presently w/o Sh. Inderjeet s/o Sh. Lekh Ram, r/o Village Sunali, P.O. Khurahah, Tehsil Sundernagar, District Mandi (H.P.) applicants have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1955 that they have solemnized their marriage on 02-01-2020 at Ghumarwin, District Bilaspur, H.P. according to Hindu rites and ceremonies and they are living together as husband and wife since then, hence their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 09-04-2021. After that no objection will be entertained and marriage will be registered.

Issued today on 03-03-2021 under my hand and seal of the court.

Seal.

RAHUL CHAUHAN (HPAS)  
*Marriage Officer-cum-Sub-Divisional Magistrate,  
Sundernagar, District Mandi (H.P.).*

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**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sadar,  
District Mandi (H. P.)**

In the matter of :

1. Tanman s/o Sh. Uttam Chandel, r/o H. No. 261/03, Jail Road, Tehsil Sadar, District Mandi (H.P.).

2. Sunu d/o Sh. Bhupinder Earliar, V.P.O. Bashing, Tehsil Sadar, District Kullu (H.P.)  
.. Applicants.

*Versus*

General Public

**Subject.**—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Tanman s/o Sh. Uttam Chandel, r/o H. No. 261/03, Jail Road, Tehsil Sadar, District Mandi (H.P.) and Sunu d/o Sh. Bhupinder Earliar, V.P.O. Bashing, Tehsil Sadar, District Kullu (H. P.) at present wife of Tanman s/o Sh. Uttam Chandel, r/o H. No. 261/03, Jail Road, Tehsil Sadar, District Mandi (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 25-06-2019 according to Hindu rites and customs at their respective house at District Mandi H.P. and they are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.



Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 01-04-2021 after that no objection will be entertained and marriage will be registered.

Issued today on 02nd day of March, 2021 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,  
Sadar, District Mandi (H.P.).*

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sadar,  
District Mandi (H. P.)**

In the matter of :

1. Harshit s/o Sh. Santosh Vaidya, r/o H. No. 63/8, Bangla Mohalla, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.).

2. Aashima Malhotra d/o Sh. Raghubir Malhotra, Village Sanyardi, P.O. Talyahar, Tehsil Sadar, District Mandi (H.P.) . . Applicants.

*Versus*

General Public

*Subject.*—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Harshit s/o Sh. Santosh Vaidya, r/o H. No. 63/8, Bangla Mohalla, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.) and Aashima Malhotra d/o Sh. Raghubir Malhotra, Village Sanyardi, P.O. Talyahar, Tehsil Sadar, District Mandi (H.P.) at present wife of Harshit s/o Sh. Santosh Vaidya, r/o H. No. 63/8, Bangla Mohalla, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 30-01-2020 according to Hindu rites and customs at their respective house at District Mandi H.P. and they are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 01-04-2021 after that no objection will be entertained and marriage will be registered.

Issued today on 02nd day of March, 2021 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,  
Sadar, District Mandi (H.P.).*

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sadar,  
District Mandi (H. P.)**

In the matter of :

1. Ashray Sharma s/o Sh. Baldev Raj Sharma, r/o H. No. 34/9, Bhagwhan Mohalla, Mandi Town, Tehsil Sadar, District Mandi (H.P.).

2. Tanu Kashyap d/o Sh. Subhas Chand, r/o H. No. 34/9, Bhagwhan Mohalla, Mandi Town, Tehsil Sadar, District Mandi (H.P.). . . *Applicants.*

*Versus*

General Public

*Subject.*—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Ashray Sharma s/o Sh. Baldev Raj Sharma, r/o H. No. 34/9, Bhagwhan Mohalla, Mandi Town, Tehsil Sadar, District Mandi (H.P.) and Tanu Kashyap d/o Sh. Subhas Chand, r/o H. No. 34/9, Bhagwhan Mohalla, Mandi Town, Tehsil Sadar, District Mandi (H.P.) at present wife Ashray Sharma s/o Sh. Baldev Raj Sharma, r/o H. No. 34/9, Bhagwhan Mohalla, Mandi Town, Tehsil Sadar, District Mandi (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 03-02-2008 according to Hindu rites and customs at their respective house at District Mandi H.P. and they are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 01-04-2021 after that no objection will be entertained and marriage will be registered.

Issued today on 02nd day of March, 2021 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,  
Sadar, District Mandi (H.P.).*

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**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Shimla (Urban)**

In the matter of :

1. Sh. Ramesh Kumar aged about 57 years s/o Sh. Ram Dass, r/o Shanti Kunj, Dhobighat, Annadale Shimla, Tehsil & District Shimla, Himachal Pradesh (India).

2. Mrs. Beena Devi aged about 52 years w/o Sh. Ramesh Kumar, r/o Shanti Kunj, Dhobighat, Annadale Shimla, Tehsil & District Shimla, Himachal Pradesh (India) . . Applicant.

*Versus*

General Public

*Subject.*—Proclamation for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Ramesh Kumar and Mrs. Beena Devi have filed an application alongwith affidavits before the court undersigned on 08-03-2021 under section 15 of Special Marriage Act, 1954 that they had solemnized their marriage on 7th May, 1987 at Shanti Kunj, Dhobighat, Annadale Shimla, Tehsil & District Shimla, Himachal Pradesh (India) and they are living as husband and wife since then, hence their marriage may be registered under special marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objections personally or in writing before this court on or before within 30 days from the date of publication of this notice in official Gazette after that no objection will be entertained and marriage will be solemnized accordingly.

Issued today on 09th March, 2021 under my hand and seal of the court.

Seal.

MANJEET SHARMA (H.P.A.S.),  
Marriage Officer-cum-Sub-Divisional Magistrate,  
Shimla (Urban).

समक्ष श्री राजेश कुमार, सहायक समाहर्ता द्वितीय वर्ग, तहसील ददाहू,  
जिला सिरमौर (हि0 प्र0)

ब मुकद्दमा :

श्री बीरू दीन पुत्र श्री रोशन दीन, निवासी जन्दर बनूना, तहसील ददाहू, जिला सिरमौर (हि0प्र0)

बनाम

आम जनता

प्रार्थना—पत्र बराए दुरुस्ती नाम।

श्री बीरू दीन पुत्र श्री रोशन दीन, निवासी जन्दर बनूना, तहसील ददाहू, जिला सिरमौर (हि0प्र0) ने इस अदालत में आवेदन—पत्र प्रस्तुत किया है कि प्रार्थी के दादा का नाम राजस्व अभिलेख, मौजा जन्दर बनूना में महन्तू पुत्र निका दर्ज है जो गलत है जबकि प्रार्थी के दादा का नाम मन्दु दीन पुत्र निका है। जिसकी पुष्टि हेतु प्रार्थी ने अपने आवेदन के साथ परिवार नकल, अपना हल्फीया ब्यान संलग्न किया है जिसकी दुरुस्ती हेतु राजस्व अभिलेख मौजा जन्दर बनूना में अपना नाम मन्दू दीन दर्ज करवाना चाहता है।

अतः इस नोटिस द्वारा समस्त जनता ग्राम जन्दर बनूना हर आम व खास को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती राजस्व अभिलेख में दर्ज करने बारे कोई उजर या एतराज हो तो वह दिनांक 20-03-2021 को या इससे पूर्व असालतन या वकालतन हाजिर होकर अपना एतराज पेश कर सकता है। उसके पश्चात् कोई उजर व एतराज न सुना जाएगा और नियमानुसार प्रार्थना-पत्र का निपटारा कर दिया जाएगा।

आज दिनांक 24-02-2021 को मेरे हस्ताक्षर व कार्यालय मोहर द्वारा जारी किया गया।

मोहर।

राजेश कुमार,  
सहायक समाहर्ता द्वितीय श्रेणी,  
तहसील ददाहू, जिला सिरमौर (हि0 प्र0)।

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**ब अदालत सहायक समाहर्ता प्रथम श्रेणी (तहसीलदार), नाहन, जिला सिरमौर (हि0 प्र0)**

उनवान मुकद्दमा : दावा जाति दुरुस्ती

श्री कमल कुमार पुत्र श्री माम चन्द, निवासी जैन मन्दिर, रानीताल नाहन, तहसील नाहन, जिला सिरमौर (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

प्रतिवादीगण।

आवेदन-पत्र बाबत जाति दुरुस्ती मौजा रानीताल, तहसील नाहन बारे।

प्रार्थी श्री कमल कुमार पुत्र श्री माम चन्द, निवासी जैन मन्दिर, रानीताल नाहन, तहसील नाहन, जिला सिरमौर (हि0 प्र0) ने इस अदालत में दरखास्त पेश की है कि वह मौजा रानीताल, तहसील नाहन, जिला सिरमौर में मालिक अराजी है। जिसमें उसके परिवार की जाति दर्ज न है उसके परिवार की सही जाति कहार है जिसे राजस्व रिकार्ड मौजा रानीताल में दर्ज किया जावे।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति को प्रार्थी श्री कमल कुमार पुत्र श्री माम चन्द, निवासी जैन मन्दिर के परिवार की जाति कहार राजस्व रिकार्ड में दुरुस्त करने बारे कोई उजर/एतराज हो तो वह अपना एतराज दिनांक 31-03-2021 को प्रातः 10.00 बजे तक इस अदालत हजा में असालतन/वकालतन हाजिर आकर पेश कर सकते हैं। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जावेगी। उसके बाद किसी का कोई भी उजर/एतराज जेर समायत न होगा।

आज दिनांक 23-02-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता प्रथम श्रेणी, तहसीलदार,  
नाहन, जिला सिरमौर (हि0 प्र0)।

**ब अदालत सहायक समाहर्ता, प्रथम श्रेणी (तहसीलदार), नाहन, जिला सिरमौर, हि0 प्र0**

मिसल नं0 58/2020

उनवान मुकद्दमा : दावा नाम दुरुस्ती

श्रीमती शन्नो धामी पत्नी श्री जनेन्द्र धामी, निवासी महाल अमरपुर, तहसील नाहन, जिला सिरमौर, हिमाचल प्रदेश  
प्रार्थी।

बनाम

आम जनता

प्रतिवादीगण।

आवेदन—पत्र बाबत पिता का नाम दुरुस्ती मौजा अमरपुर, तहसील नाहन बारे।

प्रार्थिया श्रीमती शन्नो धामी पत्नी श्री जनेन्द्र धामी, निवासी महाल अमरपुर, तहसील नाहन, जिला सिरमौर, हिमाचल प्रदेश ने इस अदालत में दरखास्त पेश की है कि उसके पति का सही नाम जितेन्द्र कुमार राजस्व कागजात माल मौजा अमरपुर, तहसील नाहन, जिला सिरमौर में दर्ज चला आ रहा है जबकि उसके पति का सही नाम जनेन्द्र धामी है जिसे राजस्व रिकार्ड मौजा अमरपुरी में सही किया जावे।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति को प्रार्थिया श्रीमती शन्नो धामी के पति श्री जनेन्द्र धामी का नाम जितेन्द्र कुमार के स्थान पर जनेन्द्र धामी राजस्व रिकार्ड में दुरुस्त करने बारे कोई उजर/एतराज हो तो वह अपना एतराज दिनांक 31-03-2021 को प्रातः 10.00 बजे तक इस अदालत हजा में असालतन/वकालतन हाजिर आकर पेश कर सकते हैं। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जावेगी। उसके बाद किसी का कोई भी उजर/एतराज जेर समायत न होगा।

आज दिनांक 23-02-2021 को हमारे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—

सहायक समाहर्ता प्रथम श्रेणी तहसीलदार,  
नाहन, जिला सिरमौर (हि0 प्र0)।

**ब अदालत सहायक समाहर्ता प्रथम श्रेणी (तहसीलदार), नाहन, जिला सिरमौर (हि0 प्र0)**

उनवान मुकद्दमा : दावा जाति दुरुस्ती

श्री धर्मेन्द्र कुमार पुत्र श्री हरि किशन, निवासी कच्चा टैंक नाहन, तहसील नाहन, जिला सिरमौर (हि0 प्र0)  
प्रार्थी।

बनाम

आम जनता

प्रतिवादीगण।

आवेदन—पत्र बाबत जाति दुरुस्ती मौजा नाहन, तहसील नाहन बारे।

प्रार्थी श्री धर्मेन्द्र कुमार पुत्र श्री हरि किशन, निवासी कच्चा टैंक नाहन, तहसील नाहन, जिला सिरमौर (हि0 प्र0) ने इस अदालत में दरखास्त पेश की है कि वह मौजा नाहन, तहसील नाहन, जिला सिरमौर में

मालिक अराजी हैं। जिसमें उसके परिवार की जाति बैरागी भारद्वाज दर्ज है उसके परिवार की सही जाति ब्राह्मन बैरागी है जिसे राजस्व रिकार्ड मौजा नाहन में सही किया जावे।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति को प्रार्थी श्री धर्मेन्दर कुमार के परिवार की जाति बैरागी भारद्वाज राजस्व रिकार्ड में दुरुस्त करने बारे कोई उजर/एतराज हो तो वह अपना एतराज दिनांक 31-03-2021 को प्रातः 10.00 बजे तक इस अदालत हजा में असालतन/वकालतन हाजिर आकर पेश कर सकते हैं। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जावेगी। उसके बाद किसी का कोई भी उजर/एतराज जेर समायत न होगा।

आज दिनांक 23-02-2021 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता प्रथम श्रेणी, तहसीलदार,  
नाहन, जिला सिरमौर (हि0 प्र0)।

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**ब अदालत सहायक समाहर्ता, द्वितीय श्रेणी पांवटा साहिब, जिला सिरमौर (हि0 प्र0)**

मिसल नं0 49/20

तारीख पेशी : 08-04-2021

मिसल तकसीम जेरे धारा 123 हि0 प्र0 भू0 रा0 अ0 नि0 1954 वाका मौजा तारुवाला, तहसील पांवटा साहिब, जिला सिरमौर (हि0प्र0)।

ब मुकद्दमा :

नीलम w/o स्वर्ण कुमार

बनाम

तजिन्दर सिंह s/o मोहन सिंह

बनाम प्रतिवादीगण नं0 (1) श्रीमती कमलेश w/o ओम प्रकाश, निवासी तारुवाला तहसील पांवटा साहिब, जिला सिरमौर (हि0प्र0), (2) दुग्गल पुत्र रणीयां, निवासी तारुवाला, तहसील पांवटा साहिब, जिला सिरमौर (हि0प्र0)।

मुकद्दमा उपरोक्त में प्रतिवादीगण की तलबी आसान तरीके से न हो पा रही है अतः प्रतिवादीगण उपरोक्त को इस नोटिस/इशतहार द्वारा सूचित किया जाता है कि वह उपरोक्त मुकद्दमें की पैरवी हेतु मिति 08-04-2021 को सांय 2.30 बजे असालतन या वकालतन हाजिर अदालत होवें अन्यथा गैरहाजिरी की सूरत में कार्यवाही एकतरफा अमल में लाई जाएगी।

आज दिनांक 01-03-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता द्वितीय श्रेणी,  
पांवटा साहिब, जिला सिरमौर (हि0 प्र0)।

**ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, पांवटा साहिब, जिला सिरमौर (हि0 प्र0)**

श्री रणवीर सिंह पुत्र गुरमोहीन्द्र सिंह, निवासी भुंगरनी, तहसील पांवटा साहिब, जिला सिरमौर (हि0 प्र0)  
वादी।

बनाम

आम जनता

प्रतिवादी।

उनवान मुकद्दमा.—प्रार्थना—पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री रणवीर सिंह पुत्र गुरमोहीन्द्र सिंह, निवासी भुंगरनी, तहसील पांवटा साहिब, जिला सिरमौर (हि0 प्र0) ने एक प्रार्थना—पत्र प्रस्तुत करके निवेदन किया है कि आवेदक किन्हीं कारणों से अपने स्वयं की जन्म तिथि 20-11-1964 का इन्द्राज निर्धारित अवधि के अन्दर सम्बन्धित ग्राम पंचायत में दर्ज नहीं करवा पाया है। इस बारे आवेदक द्वारा एक ब्यान हल्फी भी पेश किया गया है तथा इस सम्बन्ध में दो गवाहों के शपथ—पत्र भी आवेदक ने अपने प्रार्थना—पत्र के साथ संलग्न किये हैं। आवेदक ने ग्राम पंचायत शिवपुर में अपनी ऊपर वर्णित जन्म तिथि 20-11-1964 को दर्ज करने का अनुरोध किया है।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति को रणवीर सिंह की जन्म तिथि ग्राम पंचायत, तहसील पांवटा साहिब में दर्ज करने बारे कोई एतराज हो तो वह मिति 05-04-2021 को या इससे पूर्व हमारे न्यायालय में हाजिर होकर लिखित अथवा मौखिक एतराज पेश कर सकता है। उक्त निश्चित तिथि के बाद कोई भी एतराज मान्य नहीं होगा और समझा जायेगा कि उक्त प्रार्थी की जन्म तिथि को सम्बन्धित ग्राम पंचायत शिवपुर में दर्ज करने बारे किसी को कोई एतराज नहीं है तथा नियमानुसार जन्म तिथि पंजीकरण के आदेश जारी कर दिये जायेंगे।

आज दिनांक 04-03-2021 को हमारे हस्ताक्षर व मोहर से जारी हुआ।

मोहर।

हस्ताक्षरित /—  
कार्यकारी दण्डाधिकारी,  
पांवटा साहिब, जिला सिरमौर, हि0 प्र0।

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**ब अदालत श्री नरोत्तम लाल गौड़, सहायक समाहर्ता प्रथम श्रेणी, तहसील कमरऊ,  
जिला सिरमौर (हि0 प्र0)**

श्रीमती नोमी देवी पत्नी श्री मौजी, निवासी ग्राम डांडीवाला, तहसील पांवटा साहिब, जिला सिरमौर (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना—पत्र भू—राजस्व अधिनियम की धारा 37(1) के तहत नाम दुरुस्ती बारे।

श्रीमती नोमी देवी पत्नी श्री मौजी, निवासी ग्राम डांडीवाला, तहसील पांवटा साहिब, जिला सिरमौर (हि0 प्र0) ने इस अदालत में एक प्रार्थना—पत्र मय परिवार नकल, ग्राम पंचायत डांडा, अपना आधार कार्ड प्रति, राजस्व अभिलेख नकल जमाबन्दी, मौजा बाईला गजौण एक प्रति सहित इस आशय से प्रस्तुत किया है कि प्रार्थिया श्रीमती नोमी देवी पत्नी श्री मौजी, निवासी ग्राम डांडीवाला, तहसील पांवटा साहिब अपने स्वयं के नाम

को राजस्व अभिलेख पटवार वृत्त टटियाना में जुमो पत्नी मौजी की जगह सही नाम नोमी देवी पत्नी मौजी मुताबिक ग्राम पंचायत डांडा, तहसील पांवटा साहिब के परिवार अभिलेख अनुसार दर्ज कराना चाहती है।

अतः सर्वसाधारण को इस इशतहार के मार्फत सूचित किया जाता है कि इस बारे यदि किसी को कोई उजर/एतराज हो तो वह दिनांक 03-04-2021 से पूर्व या दिनांक 03-04-2021 को प्रातः 11.00 बजे अदालत हजा स्थित कमरऊ में असालतन या वकालतन हाजिर आकर दर्ज करा सकता है अन्यथा उजर/एतराज पेश न होने की सूरत में उक्त नाम दुरुस्ती राजस्व अभिलेख में दर्ज करने के आदेश पारित कर दिए जायेंगे।

आज दिनांक 03-03-2021 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—  
सहायक समाहर्ता प्रथम श्रेणी,  
तहसील कमरऊ, जिला सिरमौर (हि0 प्र0)।

### ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील हरोली, जिला ऊना (हि0 प्र0)

किस्म मुकद्दमा पंजीकरण शादी श्री मदन गोपाल पुत्र तरसेम लाल, वासी कांगड, तहसील हरोली, जिला ऊना व रैणु वाला पुत्री भोला सिंह, वासी वरनाला, जिला वरनाला, पंजाब।

बनाम

आम जनता

आवेदन-पत्र अधीन धारा 8(4) of Marriage Act, 1996 & Rule 4(2) of 2004.

प्रार्थी श्री मदन गोपाल पुत्र तरसेम लाल, वासी कांगड, तहसील हरोली, जिला ऊना व रैणु वाला पुत्री भोला सिंह, वासी वरनाला, जिला वरनाला, पंजाब ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उनकी शादी दिनांक 26-09-2016 को गांव कांगड में हुई है लेकिन उनकी शादी ग्राम पंचायत कांगड में दर्ज नहीं हुई है। अतः प्रतिवादीगण को बजरिया मुश्री मुनादी इशतहार सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त शादी बारे कोई उजर/एतराज हो तो वह निर्धारित तारीख पेशी दिनांक 22-03-2021 तक असालतन या वकालतन इस न्यायालय में पेश कर सकता है। अन्यथा उसके बाद कोई भी एतराज मान्य नहीं होगा और उक्त शादी पंजीकरण करने के लिए सम्बन्धित पंचायत को आदेश दे दिए जाएंगे और मुकद्दमा का निपटारा/फैसला नियमानुसार कर दिया जायेगा।

आज दिनांक .....को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—  
तहसीलदार एवं कार्यकारी दण्डाधिकारी,  
हरोली, जिला ऊना, हि0प्र0।



**ब अदालत कार्यकारी दण्डाधिकारी, अम्ब, जिला ऊना (हि0 प्र0)**

श्री अर्जुन शर्मा पुत्र श्री महिन्द्र पाल, वासी गांव अप्पर अन्दौरा, तहसील अम्ब, जिला ऊना (हि0 प्र0)

बनाम

आम जनता

विषय.—शादी पंजीकरण प्रमाण—पत्र जारी करने बारे।

श्री अर्जुन शर्मा पुत्र श्री महिन्द्र पाल, वासी गांव अप्पर अन्दौरा, तहसील अम्ब, जिला ऊना (हि0 प्र0) ने एक दरखास्त प्रस्तुत की है जिसमें उसने लिखा है कि उसकी शादी श्रीमती किरणा मदन लाल, वासी गांव दाबट, डाकघर मंझारी, तहसील श्री नैना देवी जी, जिला बिलासपुर दिनांक 06-02-2019 को मुताबिक हिन्दू रीति-रिवाज के साथ हुई है का पंजीकरण किया जाकर उसे शादी प्रमाण—पत्र दिया जावे।

अतः इस नोटिस के माध्यम से समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को शादी पंजीकरण बारे कोई एतराज/आपत्ति हो तो वह दिनांक 05-04-2021 को प्रातः 10.00 बजे या उससे पहले असालतन या वकालतन हाजिर अदालत होकर अपनी स्थिति/एतराज प्रस्तुत कर सकता है। निश्चित तिथि पर कोई एतराज प्राप्त न होने की सूरत में प्रार्थी को शादी पंजीकरण प्रमाण—पत्र जारी कर दिया जायेगा। अतः बाद में कोई उजर काबिले समायत न होगा।

आज दिनांक 05-03-2021 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ है।

मोहर।

हस्ताक्षरित/—  
कार्यकारी दण्डाधिकारी,  
अम्ब, जिला ऊना (हि0 प्र0)।

राज्य निर्वाचन आयोग हिमाचल प्रदेश

**STATE ELECTION COMMISSION HIMACHAL PRADESH**

आर्मसडेल, शिमला-171002 Armsdale, Shimla-171002 Tel. 0177-2620152, 2620159, 2620154, Fax. 2620152

Email:secysec-hp@nic.in

*CORRIGENDUM*

*Dated, the 15th March, 2021*

**No. SEC(13)91/2015-2856-2866.**—Whereas this Commission has notified the delimitation of wards in respect of Municipal Corporation, Mandi vide its Notification No. SEC(13) 91/2015-7003-7023 dated 17-12-2020 both in Hindi and English.

And whereas in the English version of the wards of this corporation the number of wards and extant of wards were published in respect of earlier wards of Municipal Council, Mandi notified in the year, 2015 inadvertently.

Therefore, the State Election Commission, in exercise of powers vested in it under Section 281 of the Himachal Pradesh Municipal Act, 1994 read with sub-rule (2) of Rule 9 of Himachal Pradesh Municipal Election Rule, 2015 the State Election Commission, Himachal Pradesh hereby notifies the correct authoritative text of Notification No. SEC(13)91/2015-7003-7023 dated 17-12-2020.

**MUNICIPAL CORPORATION, MANDI WARD BOUNDRIES**

Ward No.	Name of Ward	E. B. No.	Boundaries of Wards
1.	Khaliyar	000100	This block has been constituted starting ahead of Khaliyar Chungi from Shri Dev Saini's house to retired CMO, Mr. Jyoti Prasad's house including all upside houses on Mandi-Pathankot road.
		000200	This block has been constituted from Puri's patrol pump; ahead of Khaliyar Chungi to Ward Member Mr. Anand Kumar's house including all the downside houses on Mandi-Pathankot road.
		000300	This block has been constituted with the drain downward of Dy. Commissioner's residence, including all the houses upward to Mandi-Pathankot road, including Radha Swami Bhawan alongside drain of Kataula road, via Dhangsi dhaar down to the Beasa Bridge alongwith all houses and from the Beasa bridge to wood depot & Forest Deptt. Colony ahead of Mr. Prakash Chand's shop.
		000400	This block has been constituted starting from Dr. Jeevan Lal's house and by including all the houses downward to Mandi-Pathankot road to Ramesh Chander Vaidya's house in a street which passes ahead of Late Mr. K.L. Sehgal's house.
		Bijani/368	Complete Bijni Muhal.
		Chhipanu/367	Complete Chhipanu Muhal.
2.	Purani Mandi	000500	This block has been formed starting from a house of Purani Mandi in front of Hanuman Temple including all the houses upward to road, furthermore by including all the houses opposite to Smt. Sarita Handa's house, making the drain as a boundary upto Mr. Rajender's house upward on Vasani road.
		000600	This block has been formed including all the houses upward to NH starting from Smt. Sarita Handa's house and leads through Happy Service Station to Jagriti Medical Store and including all the houses below to uplane, through Chaman Lal's house; ahead of Batuk Temple to Radha Krishan Temple, apart from this it includes Mrs. Jamna Devi's house upto drain/sewer and below

			that upto Mrs. Sarita Handa's house.
		000700	This block goes starting from Mrs. Vidya's house in front of Kamal Kunj to Anglo Sanskrit School including all the houses toward Sheetala Mata Temple, and including all the houses below to backside street of Anglo Sanskrit School heads toward the street behind Mr. Lachhman Upadhyay's house which leads to Vasani, further, it includes all the downward houses upto Mr. N.L. Ukhal's house, and in backside including all the houses along footpath/path leading to Behra Nallah through Banyan tree and Mr. Hutasan Shastri's house. From Nallah to main road and through that road to an upward street opposite to Jagriti Medical Centre including all the houses of this street are in this block.
		000800	This block starts from Durga Dutt's house front facing ravine/drain which is in front of the street behind Anglo Sanskrit school and continues to go through the Netar Pal's house and include all upward houses of the street ahead of Lala Sipahi's house and lead to Vasai. The way/path which goes to Vasai by Mr. Kashir Thakur's house and all the houses including Mr. Kanhaiya Mistri's house, ahead this all the houses of Vasani are comprised in this block.
		000900	This block has been constituted including all the houses of Chhatrail, above the forest deptt. office along the Behada Nallah; and including the Conservator of Forests's Residence and all the houses next to this below the Araadha road, and including the offices of Commissioner & DIG, judges' residence; and M.L. Pathak's house and in front of it Harjinder's house; Bhardwaj Karyana store and front facing; all the houses of Mr. R.C. Vaidya, and including all the Govt. residences below Sachin Automobile; and through the road which passes by Bhimakali Temple and above upto the Behada Nallah.
		0001000	This block starts from the Beas Sadan, below the NH to Victoria Bridge including Tran Tal, police residences, income tax office, Indira Residential Colony, RD industry and Trilokinath Temple.

3.	Paddal	005400	This block has been formed starting from police line to Shri Arun Kumar Sahiba clinic house No. 261; including the path-upward to police line-which goes to ex-president Pushpraj's house, including PWD rest house coma tourist lodge up to national highway road from Panchayat Bhawan through front-facing Gurudwara Govind Singh to the forward direction including all the houses upward along the road, respectively.
		005500	This block starts from Sh. Iteshwar Chatterji's house in Sauli Khad further including the house of Mr. H.S. Thakur and Mr. Mahesh Kumar; and from Mr. Ammi Chand's house along the road near the bridge to Bhiyuli Bridge, downside of Bhiyuli bridge to Paddal; including Govt. College gate to shops by Paddal stadium, and from Nagar Prishad Toilet (uninal) to Jimkhana club gate in front of Sadar police station, assuming the Jimkhana gate's wall as a boundary toward Paddal Ground from Nagar Prishad Toilet (uninal) to road leading to Jalpa temple, including all the houses from Jimkhana's boundary to college and all the houses upward to river upto the Bhiyuli bridge.
		005600	This block comprises starting from Panchwaktra Temple to Beas Guest House along the river, further including Govt. residences, Jimkhana club, school building, and ahead the Principal's residence. After this, it includes Miyan Ki Kothi facing Paddal ground, Thana Sadar, ITI Mandi starting from Jagannath temple, and including all the houses by shore of ravine/rivulet (khadd) upto the Hanuman temple situated down.
		Bhiuli/371	Muhal Bhiuli/Complete Muhal of 371
4.	Nela	005700	This block has been formed by including transport depts. residences upward to the road; which passes to Langani village opposite to Sauli Khadd bridge, including the houses of the industrial area below unmetalled/Kaccha path which goes to Majhwar, and including the houses below to road which connects to Majhwar road. It includes HRTC workshop above the

			Mandi-Kullu road towards Mandi upto the starting point of Sauli Khadd bridge.
		005800	This block has been formed starting from the PWD store below the road at Sauli Khadd bridge to bridge including hotel Shringar and next, hotel River Bank, including all the houses upto Pertol pump and Brigadier Mr. Bhupender Vigh's house and all the houses toward the river in downward.
		Nela/342	Nella/Complete Muhal of 342
		Dudar/345	Some parts of Muhal Dudar
		Shilhakippar/341	Muhal Shilhakipad/Complete Muhal of 341
		Bharon/337	Bharaun/Some parts of 337
		DPF Kangni/344	DPF Kangani/Complete Muhal of 344
		Chadyana/343	Chadyana/Complete Muhal of 343
5.	Mangwain	004900	This block has been constituted from the Hotel Kind City on Mandi-Sundernagar road including houses ahead to Hesvi & Company, ahead this all the houses situated along the shops on a road from Mohan Electrical Works; again where this road meets Ambulance road; above to that point is Muncipal Council's path; and houses below to this path are included in this block. Now upto the house of Mr. Khushal Bisht assuming Mr. Rakesh Malhotra's house as boundary, straight down to the King City Hotel is in this block.
		005000	This block starts from Sh. Dayal Singh Retd. DEO's house, and goes through Veer Singh & Company to Kehanwal Nallah, further continues including civil supply godown and Raj Kumar tailor master along the nallah, including DFC Chandel's house to all the houses below the raod along Mr. Harnam Singh Guleria's house, and through road which goes up toward the hosue of Gambhir Singh Thakur and Ramesh Kumar and below the road including all the houses in from of Mr. Gattu Ram's house upto the nallah; then this nallah to Mr. Dayal Singh Retd. DEO's house.
		005100	This block has been formed starting from the house/building of Thakur General Store on Mandi-Sundernagar road, where another road goes to Kehanwal to Mr. Rajender Thakur's shop; and from hereward which path goes to Singhagala; below this path

			including all the houses to upward assuming Neelmani's house as a boundary, to Smt. Chandrawati's house and other houses which are below the cowshed of Mr. Niranjn Singh, and after this by including Devi Roop's house to downward along main road through Ashoks Steel Industries; and including Jassu Ram's house and nallah; also from a way which is upward from Mr. Dayananda's house upto Smt. Vidya Devi's house which lies ahead Mr Pawan Kumar's house, after this on the other side of road from Ranjan Singh's house to all the houses upward to the khadd/ravine and is further up to the boundary of Nallah/channel which is along Sardar Mehar Singh's house.
		005200	This block has been constituted starting from Sh. Santosh Sexena's house in front of tehsil nallah, through verterinary hospital above along the Mandi-Sundernagar road assuming nallah—Neeldhaari Gurudwara to Naamdhari Gurudwara—as a boundary; by including all the downside houses which are upward to khadd.
		005300	This block has been formed by including all the houses below Mandi-Sundernagar road ahead of Vishwakarma Temple along Suketi bridge; to Sardar Raghuveer Singh's house and to nallah along Tehsil office; and include all the houses upward the khadd upto the Suketi bridge from where the block starts.
6.	Sanyarad	Sanhyarad/363	Sanyaradh/Complete Muhal of 363
		Chadyara/346	Chadyara/Complete Muhal of 346
7.	Talyahar	Talyahar/360	Talyahar/Complete Muhal of 360
		Panjethi/365	Panjethi/Complete Muhal of 365
		Madwahan/364	Madwahan/Complete Muhal of 364
		001400	This block has been formed starting from the District Controller Food & Civil Supply Office and by including Tara Chand Malhotra's house, PWD residences, and all the houses of Distt. Administration Officer's colony upto the boot/shoes repair shop including all the houses below this shop.
		001300	This block has been formed by including all the houses upward the road which passes by BDO office, now-a-days, Arunodaya School upto Viyuns Nallah, and including the houses of Bhangauli Tungal colony upward

			to this nallah and further upto the Kalyan Dham situated leftward to Smt. Himachali Devi Retd. Supdt's house; and from the Jail, in front of Kalyan Dham to Mr. Manmohan's house along the road upto the Biyuns Nallah. The half are of this block has been included in Talyahar Ward No. 7.
8.	Palace Colony-I	001300	The remaining are of this block includes Kalyan Dham, ahead to leftward Mast Ram & Leela Devi's house to nallah; and from Smt. Krishna Devi's house, which is on the other side of nallah to starting boundary of Sadhani nallah. Alongside the Rewalsar road, Indra Singh's house upside of this road to Ayurvedic shop is included in Palace Colony-1 ward No. 8.
		001100	This block has been formed by assuming old stairs upward to old State Bank building which is upside to M/s Prem Sagar & Sons, and Netranand's house as a boundary down along the Palace road by including Gopal Thakur's house and all the houses through main road, Mandi-Rewalsar road upto the Canara Bank.
		001200	This block has been formed including Sh. Netranand's old Tika Kothi; including all houses upward to road ahead to Dr. Kaushal's house to all houses in Sadhani Nallah and upto Sardar Huzur Singh's house upward along this nallah.
		001500	This block has been formed starting from Mr. Bhoop Singh Kappoor's house, next including residential buildings of District Education Officer, houses along the Sakoddi khadd and including houses below Rewalsar road, next including Banwari Lal's shop, all the houses next to sub-jail and by including houses below the road upto the Sakoddi bridge.
		002000	This block has been formed strating from Union Bank Mandi including all the houses along the road through R. Sons facing the road which leads to Palace; including all the houses opposite to RS Kashyap's house, which is below the upward path through Sh. Shivilal Kapoor's house which is upward to Malhotra Jeweler's house No. 127/5; stairs which goes upward from M/s Mahendra General Store opposite to Mr. P.C. Sharma's house; nextward, including

			Sh. Basant Guleria's house, in forward direction houses along the nallah, all the houses ahead to Mr. Devender Sharma's house, from Jagdish to Keshav's house in downward through Sh. Hariram Sharma's house down through Dr. Prabhakar's house to Union Bank.
9.	Palace Colony-II	002100	This block starts through spectacles shop in Palace colony hospital road, including Mr. R.S. Rana's house opposite to Sh. Bhajnik Singh's house, and upward through Sh. R.P. Kashyap's house to the houses downward of Sh. P.C. Sharma's house, including houses toward Bawadi/step-well ahead to hospital and Sardar Karanveer Singh's house along nallah, and including all houses along the road with KS hospital to spectacles shop.
		002200	This block has been formed from Fast food shop, including all houses along canteen road with R Sons Furniture, including all downward houses opposite to Sainik board moving forward to Sh. Harbhajan Singh's house and including all the houses upto R Sons Furniture from where it starts.
		002300	This block has been formed from houses along the hospital nallah to hospital gate including Sh. Subhash Chand's house upward to houses of hospital nallah, upto the Ganpati nallah and assuming stepwell a boundary and houses toward hospital nallah including Gauri Shankar and O.P. Sharma's house.
		002400	This block has been formed starting from PWD store adjoining Ganapati nallah to Sh. Nanak Sainin's house, including Ashoka Gupta's house and other houses above to road, to Beer road ahead and the way which goes Beer road to Sain where there is Master Param Dev Saini's house and ahead this Sh. Dinanath's house, further all houses upward to Chandra Mohan Siani's shop respectively.
		002500	This block starts from Sh. Bhupender Saini's shop which is opposite to Sh. Nanak Saini's house, and including all the houses below to the path which goes upward to Sain, including all the houses below the nallah upto Beer road, including Mat to lower Raghunath Padhar road which goes down to the sewerage plant and along the Beas



			river backside to the Sakoddi khadd where it meets the Beas river upward to point where it starts.
		Badi/48	Badi/Complete Muhal 48
10.	Suhra	001600	This block has been formed starting from Lakhn Fast Food to UP colony—by including houses with Sakoddi Khadd downward to hospital road upto Sh. Nand Lal Lohia's shop, all the houses along nallah to UP colony repectivley.
		001700	This block has been formed starting from Sh. Khem Chand's house to Sh. Lal Chand's house including all houses along Sh. Bhajanu's house, a street which goes to Sh. Bala Kameshwar temple, Late Sh. Narayan Dass's house, houses ahead to Rajani's house toward Sakoddi Khadd, Sh. Om's situated by Sakoddi Khadd bridge No. 2.
		001800	This block has been formed starting from Sh. Damodar Dass's house opposite to Sh. Guru Ravidas Temple including all houses through road upto Sh. Shivram's shop ahead Master Sh. Indra Singh's house, further including Sh. Dasu Ram's house, and street — through Sh. Shyam Lal's house — which leads to Sh. Dev Bala Kameshwar temple, further including Sh. Hukam Chand's house towards Sh. Nag's house and Khadd and upward Sh. Aalam Das's house upto new bridge beside Late Sh. Damodar Das's house.
		001900	This block has been formed starting from Late Sh. Batana Ram's house, and including the house of Smt. Rajkumari along the upward stairs, and through street of Shera Tea Stall including all houses opposite to municipality office, further including all the houses along Mandi-Rewalsar road which goes through Manpasand Sweets shop, further Govt. Sr. Sec. School (Boys) Mandi ahead to this Lakhpatti's house and below to this, including all the houses toward Sh. Guru Ravidas Temple upto Smt. Rodi Devi's house.
		002900	This block has been formed starting from the Aarya Samaj temple, including houses along the road, street which leads to Mahajan Bazar, further, from

			Sh. Balibhadra's Shop to Pt. Jwala Prasad's house and all the houses along stairs, which goes to Suhada Mohalla, and street which goes through Badi Nali to Arya Samaj temple.
		003000	This block includes the street—opposite to Mahatma Gandhi's statue—which goes to municipality office, along the street in Mahajan Bazar ahead to shop of Kaku Shah that street which goes to Samkhetar, including all shops and houses of Moti Bazar along the road from MC's urinal, from Bata Shoes Company towards Chauhata Bazar to Deep Panwallah's shop.
11.	Samkhetar	002600	This block has been formed starting from the Khuarani temple to contractor Sh. Devki Nandan Vaidya's house downward to Gol Paidi, upto the Khadi board shop along the road upward, and from Sh. Jyoti Prakash Gorocer's shop — which is inward from this shop and near Charan Paduka — to Khuarani temple.
		002700	This block has been formed from Smt. Kanta Vaidya's house along the road to Sh. Devki Nandan Sharma's house in National street, and nextward including all houses upto Chandra Dee Hatti near Peepul Tree ahead of the Late Sh. Ramchand Malhotra's house.
		002800	This block has been formed starting from the Victoria bridge, including all houses below to the road, including District treasury office toward Sakoddi Khadd, further assuming Badi Nali as a boundary upward upto the street toward Aarya Samaj Temple.
		003100	This block has been formed starting from Krishna Fancy Store in Chuahata Bazar, including shops/houses toward ARC shop in Moti Bazar, street inward and street— ahead to Sh. Subhash Dwivedi's house which goes to Balakroopi Bazar starting from the inward of Sindhi Bartan Bhandar, Balakroopi temple and through Bhutnath street to Chuahata Bazar from where it starts.
		003200	This block has been formed starting from bakery shop opposite to PNB, and National street to Pawan Kumar's house and a way from there to Balakroopi temple and to Sh. Dinanath Kapoor's house along the way and inward through the street, ahead to

			Smt. Mathra Devi's house from Moti Bazar road to bakery shop.
		003300	This block has been formed starting from the Happy Handloom opposite to Balakroopi temple, upto Hemraj Panwain's shop in downward, ahead this by including all the houses of the street backside to Bazir house, Aashirwad Bhawan and upward upto Prem Niwas near Mata's Chanran Paduka, and including all the houses along the road upto Happy handloom.
		003600	This block, in Chauhata street towards Lohia's house opposite to Sh. Taru Ram's shop inward through grocery shop, includes street outward to the street which goes to Chuabata, Sh. Ishwar Das Arora's house to Smt. Teja Devi's house, upward this to grocery shop and Chaubata to Dhawan's family house opposite to urinal, along this the street which goes to (Sanatan Dharma Sabha) Bhagwahan until Sh. Hariprasad's house, and down from there reporter Hemkant Katyayan's house along with Pt. Tiku's house and from there to Bangla Chowk, from there all the houses upward to Chaubata Chowk.
12.	Bhagwahan	003400	This block has been formed starting from Sh. Shakti Prasad's house near old bridge, and including Sh. Sukhpal Tandan's house along upward Gol Paidi to Bazir house and including all the houses to bridge downward the way to Beas bridge, including all houses upto the bridge and upto tea shop, Vedanta Kutir, Hanumana Ghat Dharamshala next to Shamshan Ghat, houses along Shivarudra temple near Shiva Bawadi, and upward from Kasturba Kintting Centre including the house of Sh. Hem Chand Retd. Supdt. MC Mandi upto Sh. Harvansh Lal Vaidya's house and opposite to it Sh. Bhupender Pal Vaidya's house to downward including houses upto Ekadash Rudra temple and above this from vegetable shop to Sh. Gursingh's house and street inward along Duggi Prauli including houses ahead to Lali Babu's house and upto Dr. Bhawani Prasad's house.
		003500	This block has been formed starting from Sh. Kaampal's house opposite to Duggi Prauli and through the street toward

			Palakha Bazar, including Mata Chintapurni temple upward along the Bel Halwai shop, Mahalaxmi General Store opposite to Bhutnath temple in Chauhata Bazar and shops along this store upto the shops toward Chandralok street and including Chandralok to Chuabata Chowk below and downward this by including all the houses of Sh. Chandrashekhar side-by-side.
		003700	This block includes Smt. Ganga Devi's house from the start to Dibba Bawadi and ahead through Shyam Lal's house to where there is primary school upward to Dr. Yogesha's house, and above Sh. Kashmir Singh's house, and all the houses upto tailor shop which is next to the Bhadrakali temple.
		003800	This block has been formed Sanatan Dharma Sabha temple below toward Sh. Padmanabha's house ahead upto Kamlapati (Krishna Kutiya) next to Bhagwahan Chowk and from there upward which street goes through the front of Sh. Tiku Pandit's house, including upward houses upto Sanatan Dharma Sabha temple ahead of Harjas Niwas opposite to Hariprasada's house.
		003900	This block has been formed starting from Master Naval Kishore's house down to the Sanatan Dharm Sabha including all houses opposite to it and upto Damayanti Kapoor's house and Khanak street which goes to upward, above from there via Dr. Hira Singh's house to Kusumayuddha's house opposite to post office, and this post office, Hotel RajMahal, HPSEB offices, Mayfair hotel, telephone exchange and Rattan Singh's complex including Mahamrutyunjay temple on other side of the road and further along the road upto the bridge and including houses upward to Khadd/ravine.
		004000	This block has been constituted starting from Flex Boot House shop in Chauhata Bazar and Sh. Balibhadra & Laxman Das's shop at start of Chaubata street to Chaubati in downward, and upward through Swami Krishna Nanda's house which is ahead to Labhu Ram Chanewallah upto Flex Boot House shop toward Chauhata bazar ahead

			to Mr. Chiranji Lal's house, ahead this by including shops in front of Gandhi chowk, shops of Indira market and including shops on bothside adjoining the Peepul tree facing Gandhi chowk.
		004100	This block has been formed starting from Krishna hotel at stairs to Tarna, by including all the houses upward to Chief Engineer HP I&PH Deptt. and including all the houses from Pirncipal Sh. Madhav Prasad's house to house No. 88/10 down through nallah/channel and including houses/shops along the road down toward hotel Plaza ahead to that point from where it starts.
		004200	This block has been formed starting from hotel Plaza including all upward houses through Sh. Laxman Machhaliwallah's house including Sh. Hariram's house upward and upto Sh. Shivapal's house, assuming Commandant Sh. Hemchand's house downward a boundary, including the house of Sh. Prakash Chand Ghadisaz/watch-repairer in downward along the nallah/channel upto the road below Shri Neelkanth Mahadev Temple and from there to Plaza hotel where it starts.
13.	Thanera	004300	This block has been formed starting from Raju Paanbhai's shop to Koyal hotel and including all the houses, above to Sh. Roshan Sharma's house, along the way, including house (below to Hawaghar) below ambulance road upto Sh. Hemchand commandant's house further including houses along nallah/channel down to the shop of Rajupan bhai.
		004400	This block has been formed starting from Advocate General Sh. Indra Singh's house opposite to Sunken garden, assuming main road—which goes to school bazar—as a boundary, and a street ahead which leads to Electricity Rest house; including Dr. Sukhpal Singh's house and all houses upward to this along drain upward to Mr. Karamdas's house no. 88, further including all the upward houses along the path beside Gopal Sharma's house, assuming Smt. Tara Devi's house as a boundary, and a way upward by including Sh. Joginder Singh Dogra's house No. 91/11 further to

			the road where a way passes including all the houses through this, including all the houses below road through Sh. Tej Ram's house, further by assuming bridge above the stairs as a boundary, down from IPH canteen to the starting of Tarna stairs through these stairs.
		004500	This block has been formed starting from Sh. Makhan Lal's house including all the houses toward Electricity Rest House, and upward though main road which lead to Dr. Ramesh's house and including all the houses below this; and house below to Mr. Joginder Singh Dogra's house in downward direction; and by including Radha Devi's house in downward from Sh. Jasi Ram's house No. 67/11, upto that point in the down where it starts.
		004600	This block has been formed including all the houses through main road which leads to Circuit house starting from the house of Sh. Ujjwal Singh Dentist, Electricity Board Chief Engineer's residence beside nallah and circuit house and upward to this assuming N.S. Kaundal's house as a boundary, further a street which goes downward beside electricity rest house, including all the houses below to drain and further a street which goes to main road with the houses alongside.
		004700	This block is constituted by including all the houses downward to road which goes to Circuit House beside Sakoddi bridge, a way which leads to o/o District Education Officer by including o/o the Sericulture Officer & District Industries Centre Mandi respectively across the drain and including the houses toward circuit house along the khadd/ravine.
		004800	This block has been formed starting from Sh. P.C. Sharma's house No. beside the nallah/channel on Sanyardhi road, and road which leads to Tarna temple from Session house, and including houses upward to road through water tank and Chief Engineer's residence; including all the houses ahead to Mata Tarna temple toward microwave colony etc. and upto Sh. Tej Singh's house No. 378, 379, 380 and assuming facing, in downward, a boundary,

			further include houses of Sh. Bhim Singh & Deveneder Singh, including Fauzi General Store from Sh. Tej Singh Thakur's house through the path further upto Sh. Gattu Ram's house along the road, next to that closer to Hawaghar above ambulance road and including all the houses along main road to the bridge.
14.	Behna	Behna/210	Behna/Complete 210 Muhal
		Bhadyal/211	Bhadyal / Few parts of 211
		Ota/209	Ota / Complete Muhal 209
		Gutkar/208	Gutkar-II, Few parts of Gutkar Muhal from Link road Shiv temple to the boundary of Behna Muhal.
15.	Dauhandi	Gutkar/208	Gutkar-I, The remaining part of Gutkar Muhal
		Chalah/207	Chalah/Few area of 207
		Bagla/206	Bagla / Complete Muhal 206
		Dauhandi/217	Dauhandi / Complete Muhal 217

By order,  
Sd/-

*State Election Commissioner,  
Himachal Pradesh.*

